ARTICLE 1. PARTIES

1.01 Address

1.01.1 THIS AGREEMENT FOR HEATING, VENTILATING, AND AIR CONDITIONING SYSTEMS AND ASSOCIATED PLUMBING, ELECTRICAL AND CONTROL SYSTEMS ("HVAC") and THE CENTRAL UTILITIES PLANTS (CUP) HEATING, VENTILATING, AND AIR CONDITIONING SYSTEMS AND ASSOCIATED PLUMBING, ELECTRICAL AND CONTROL SYSTEMS ("HVAC") OPERATIONS AND MAINTENANCE FOR THE HOUSTON AIRPORT SYSTEM ("Agreement") at George Bush Intercontinental Airport/Houston ("IAH") William P. Hobby Airport ("HOU"), and Ellington Field ("EFD") is made on the date of countersignature by the City Controller ("Effective Date") between the CITY OF HOUSTON, TEXAS ("City"), a home rule city, and _____________________________ ("Contractor"), a corporation authorized to do business in Texas.

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

<table>
<thead>
<tr>
<th>City</th>
<th>Contractor</th>
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<tbody>
<tr>
<td>Director, Houston Airport System Or Designee City of Houston P.O. Box 60106 Houston, Texas 77205-01061</td>
<td></td>
</tr>
</tbody>
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The Parties agree as follows:

1.02 Table of Contents

1.02.1 This Agreement consists of the following sections:
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K. INCLUSION/EXCLUSION FORM
1.03  Parts Incorporated

1.03.1  All of the above-described sections and exhibits are incorporated into this Agreement.

1.04  Controlling Parts

1.04.1  If a conflict among the articles and exhibits occurs, the articles control over the exhibits.
1.05 Signatures

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

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

By: ___________________________
By: ___________________________

Name: __________________________
Name: __________________________
Title: ___________________________
Title: ___________________________

Federal Tax ID No.: _______________

ATTEST/SEAL: CITY:
CITY OF HOUSTON, TEXAS

City Secretary Mayor

APPROVED: COUNTERSIGNED:

______________________________
Mario C. Diaz
Director, Houston Airport System

______________________________
City Controller
Date Countersigned: ______________

Chief Procurement Officer

APPROVED AS TO FORM:

______________________________
Sr. Assistant City Attorney
L.D. File No.:
ARTICLE 2. DEFINITIONS

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

2.01.1 "Acceptable" means that services, equipment, or performance, meet or exceed the requirements of this Agreement.

2.01.2 "Acceptance" shall be determined by the Director and occurs when the Director determines that the unit of Work specified under the Agreement is complete and acceptable.

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

2.01.4 “Agreement” means the Agreement and written amendments authorized by City Council and Contractor or OSRs/change orders authorized by this Agreement between the City and Contractor whereby Contractor shall provide all specified Work in connection with the Agreement, in the manner provided by the Agreement.

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

2.01.6 "Airport(s)" means George Bush Intercontinental Airport/Houston (IAH), William P. Hobby Airport (HOU), and Ellington Airport (EFD).

2.01.7 “ASC” means the Airport Services Complex located at 4500 Will Clayton Parkway at IAH.

2.01.8 "Basic Services" means those services described in the Performance/Work Statement set forth in Exhibit “A.”

2.01.9 "Business Days" means all days of a calendar year.

2.01.10 “CFM” means a unit of measure for discharged air in cubic feet per minute.

2.01.11 “Chief Procurement Officer” (CPO) is the Chief Procurement Officer for the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.

2.01.12 "Contractor" is defined in the preamble.
2.01.13 “Core Competency” is defined as providing knowledge, ability, or expertise in specific areas of operations and maintenance of heating, ventilating, air conditioning (HVAC), associated plumbing, electrical, and control systems.

2.01.14 “DDC” means direct digital control for HVAC and CUP devices.

2.01.15 "Director" means the Director of the Houston Airport System or his designee in writing. The Agreement designates certain functions to be performed by the Director.

2.01.16 “DX” means direct expansion system that uses refrigerant instead of chilled water.

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

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

2.01.19 "Furnish" means to supply and deliver to the appropriate Airport site, ready for unloading, unpacking, assembly, installation, use, etc., as applicable in each instance, except as otherwise defined in greater detail.

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

2.01.21 "HVAC SYSTEMS" means heating, ventilating, air conditioning systems and all associated plumbing, electrical, and control systems.

2.01.22 "Maintenance Facilities" means the shop and office facilities the City provides to the Contractor as described in Section 6.6 of Exhibit “A.” Such facilities are provided at IAH and HOU.

2.01.23 "Maintenance Service" means Preventive Maintenance (PM), Predictive Maintenance (PdM), Reliability Centered Maintenance (RCM) and Remedial Maintenance (RM).

2.01.24 "Major Equipment" means large mechanical and electrical machinery or apparatus including specifically electric and steam driven chillers, steam condensers, boilers, cooling towers,
steam/hot water converters, deaerators, chilled and condenser water pumps within Central Plant systems, and related electrical switchboards and motor control centers, plus major parts of the above including, but not limited to, compressors, speed reducers and increasers, motors, heat exchangers, and related electrical switches and starters. For the purpose of providing Major Equipment Failure Insurance coverage pursuant to the terms of this Agreement, major equipment shall specifically exclude other mechanical and electrical machinery powered by motors of less than 100 horsepower, other heat exchangers and systems components, and appurtenances.

2.01.25 "Manufacturer" means the original manufacturer or producer of a part or component.

2.01.26 "Materials" means any substance specified for use in the accomplishment of the Work.

2.01.27 "Notice to proceed" means a written communication from the Director to Contractor instructing Contractor to begin performance.

2.01.28 "OEM" means the Original Equipment Manufacturer.

2.01.29 "Other Service Request (OSR)" is the form used to request Other Work/Services within the general scope of this Agreement but not expressly set forth in Exhibit “A.”

2.01.30 "Other Work/Services" means those services described in Performance/Statement of Work and Exhibit B – Fee Schedule as Other Work/Services and other services related to operations and maintenance services, other than Basic Services. Such services are only provided by Contractor upon the Director's written request.

2.01.31 "Preventive Maintenance (PM)" is any action performed on a time or run-hour based schedule that is designed to detect, preclude, or mitigate degradation of a component or system with the aim of sustaining or extending its useful life through controlling degradation to an acceptable level. PM includes proper inspections, proper lubrication, belts, filter changes, proper fastening procedures, determined by regularly scheduled work, etc. Preventive maintenance activities should be at least 95% of all planned and scheduled PMs shall be completed within the monthly schedule as described in Section 4.14.4.9.

2.01.32 "Predictive Maintenance (Pd.M.)" – Predictive Maintenance (Pd.M.) is a carefully planned system of machinery analysis and diagnostics. This includes measurements that detect the onset of system degradation, thereby allowing casual stressors to be eliminated or controlled prior to any significant deterioration in the component physical state. (Pd.M.) provides machinery "health condition: information, which prompts timely, corrective action". The expected result: optimum machine productivity, extended machine life, and reduced repair costs.

2.01.33 "Provide" means furnish and install, complete, and ready for intended use, as applicable in each instance, except as otherwise defined in greater action.
2.01.34 "Reliability Centered Maintenance (RCM)" – The application of Pd.M. and PM data to the preventive maintenance tasks. The process provides statistical method(s) of optimizing PM and Pd.M. programs for the HVAC SYSTEMS and CUP in which the Contractor gathers data from the HVAC and CUP performance and uses this data for the future maintenance and/or recommended design changes to increase the probability that the HVAC and CUP will function in the required manner over their design life-cycle.

2.01.35 "Remedial Maintenance (RM)" means repair of equipment and systems with parts, materials, and labor to restore performance to the designed function in the event of any breakdown or stoppage of equipment or system where the equipment or system is unable to perform its designed function. RM includes repairs and replacement of related components, parts, and appurtenances that have failed, no longer perform reliably, or have worn beyond safe tolerances.

2.01.36 "Repair" means to restore to good or sound working condition.

2.01.37 "Response Time" means the maximum elapsed time in which Contractor must respond to an Emergency Service Request. The maximum elapsed time is measured from Contractor's receipt of an Emergency Service Request to Contractor's arrival at HOU or EFD as described in Sections 3.2.3 and 3.3.1 of Exhibit “A.”

2.01.38 "Routine" means those services that do not require emergency condition.

2.01.39 “SCM” means Supply Chain Management Division located at 18600 Lee Rd., Humble TX. 77338

2.01.40 “Statement of Work” (SOW) is defined as the performance/work statement described in Exhibit “A.”

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

2.01.42 “VFD" means Variable Frequency Drive. A system for controlling the rotational speed of an alternating current (AC) electric motor by controlling the frequency of the electrical power supplied to the motor.

2.01.43 "Work" means all services to be provided by the Contractor under this Agreement, specifically, without limitation, Exhibit “A”.

ARTICLE 3. DUTIES OF CONTRACTOR

3.01 Scope of Services
3.01.1 In consideration of the payment specified in this Agreement, Contractor shall provide all labor, supervision, parts, equipment, materials, tools, instruments, expendable items, supplies,
SAMPLE CONTRACT - SUBJECT TO CHANGE
HVAC CUP

reports, transportation, insurance, subcontracts, bonds, and incidental necessary to perform the Basic Services and, if requested, Other Work/Services described in the Performance/Work Statement set forth in Exhibit "A". Contractor shall operate and maintain all the Equipment set forth in Exhibit “I” in a First Class Condition. Also as a part of Basic Services, Contractor shall perform an annual electrical and maintenance shut down as described in Exhibit “J” and test and monitor corrosion rates for the chilled water, condensate, and condenser water as specified in Exhibit “K”. Contractor shall not be paid for travel time to and from the job site. Except as provided in Exhibit “A”, Contractor shall operate and maintain the HVAC Systems and CUP on a 24-hours-per-day, 7-days-per-week, 365 days-per-year basis, including holidays. Coordinate Performance

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

4 Reports

5 Contractor shall submit all reports and progress updates required by the Director.

3.02 Duty to Inspect

3.02.1 Contractor represents that it or its agent has inspected all sites affected by this Agreement and that it is not entitled to additional compensation for its failure to accurately account for all of the work required to be performed under this Agreement.

3.03 Invoicing

3.03.1 Contractor shall submit its invoices on forms approved in advance by the Director. Each invoice must be accompanied by copies of certified time sheets and any other support documents as may be requested by the Director. Each invoice Contractor submits must be in duplicate and each copy must include required support documents. Each invoice must be identified by the Contract name and Contractor number. All invoices are to be delivered or mailed to the following location:

The City of Houston
Houston Airport System
Accounts Payable Section
P.O. Box 60106
Houston, Texas 77205-0106

3.04 Prompt Payment of Subcontractors

3.04.1 In accordance with the Texas Prompt Payment Act, the Contractor shall make timely payments to all persons and entities supplying labor, materials, services, or equipment for the performance of this Agreement. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR’S FAILURE TO MAKE THESE PAYMENTS. Contractor shall submit
disputes relating to payment of MWBE subcontractors to arbitration in the same manner as any other disputes under the MWBE subcontract.

3.05 Personnel of Contractor

3.05.1 Contractor shall provide sufficient, fully qualified personnel to meet the performance requirements set forth in Exhibit "A". The Contractor shall designate an on-site Project Manager to act on behalf of Contractor who is authorized to make all decisions regarding the Work hereunder. Such Project Manager and any replacement Project Manager shall have a minimum of ten years project experience on similar HVAC systems and Central Utility Plants. The Director may rely on any decisions made by the Project Manager as being decisions of the Contractor. Such Project Manager shall not be replaced by Contractor during the Term of this Agreement without the prior written permission of Director (subject to all employment laws) and the mutual agreement by the Director and Contractor of a replacement Project Manager who is satisfactory to the Director. Contractor shall replace any of its personnel or subcontractors, including the Project Manager or a subsequent replacement, whose work product is deemed unsatisfactory by the Director.

3.06 RELEASE

3.06.1 EXCEPT FOR THE CITY’S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY’S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY’S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

3.07 INDEMNIFICATION

3.07.1 CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

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

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

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

3.07.2 CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR’S INDEMNIFICATION IS LIMITED TO $1,000,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY’S SOLE NEGLIGENCE.

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

3.08 RELEASE AND INDEMNIFICATION - PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT

3.08.1 CONTRACTOR AGREES TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING CONTRACTOR, ALLEGING THAT THE CITY’S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

3.08.2 CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY’S PRIOR WRITTEN CONSENT.

3.08.3 WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND
DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTOR SHALL REFUND THE PURCHASE PRICE.

3.09. INDEMNIFICATION PROCEDURES

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

3.09.1.1 A description of the indemnification event in reasonable detail,

3.09.1.2 The basis on which indemnification may be due, and

3.09.1.3 The anticipated amount of the indemnified loss.

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

3.09.2 Defense of Claims

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

3.09.2.2 Continued Participation. If Contractor elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, (iii) would not result in the City’s full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.
3.10 Insurance

3.10.1 Contractor shall maintain in effect certain insurance coverage, which is described as follows:

3.10.1.1 Minimum Insurance Requirements. Contractor shall maintain the following insurance coverage in the following amounts:

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<th>COVERAGE</th>
<th>LIMIT OF LIABILITY</th>
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<tr>
<td>Workers' Compensation</td>
<td>Statutory for Workers' Compensation</td>
</tr>
<tr>
<td>Employer's Liability</td>
<td>• Bodily Injury by Accident $500,000 (each accident)</td>
</tr>
<tr>
<td></td>
<td>• Bodily Injury by Disease $500,000 (policy limit)</td>
</tr>
<tr>
<td></td>
<td>• Bodily Injury by Disease $500,000 (each employee)</td>
</tr>
<tr>
<td>Commercial General Liability: Bodily and</td>
<td>Bodily Injury and Property Damage, Combined Limits of $1,000,000 each Occurrence,</td>
</tr>
<tr>
<td>Personal Injury; Products and Completed Operations Coverage</td>
<td>and $2,000,000 aggregate</td>
</tr>
<tr>
<td>Automobile Liability</td>
<td>$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-</td>
</tr>
<tr>
<td></td>
<td>Owned Autos</td>
</tr>
<tr>
<td>Professional Liability Coverage</td>
<td>$1,000,000 per occurrence; $2,000,000 aggregate</td>
</tr>
<tr>
<td>Excess Liability Coverage, or Umbrella</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>Coverage, for Commercial General</td>
<td></td>
</tr>
<tr>
<td>Liability and Automobile Liability</td>
<td></td>
</tr>
</tbody>
</table>

Aggregate Limits are per 12-month policy period unless otherwise indicated.

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

3.10.1.3 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 Contract. 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 Contract, and all policies, except Professional Liability and Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Contract provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor’s insurance policies, except professional liability, must contain coverage waiving such claim. Each policy, except Workers' Compensation and Professional Liability, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Contract. If professional liability coverage is written on a "claims made" basis, Contractor shall also provide proof of renewal each year for two years after substantial completion of the Project, or in the alternative: evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the Project covered by this Contract with a duration of two years after substantial completion.

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

3.11 **Warranties**

3.11.1 Contractor warrants that it shall perform all Work in a good and workmanlike manner meeting the standards of quality prevailing in Harris County, Texas, for work of this kind. Contractor shall perform all Work using trained and skilled persons having substantial experience performing the work required under this Agreement.

3.11.2 With respect to any parts, instruments, equipment, and goods it furnishes, Contractor warrants:

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

3.11.2.2 that each item meets or exceeds the manufacturer’s specifications and requirements for the equipment, structure, or other improvement in which the item is installed,
3.11.2.3 that each replacement item is new, in accordance with OEM’s specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new),

3.11.2.4 that no items or their use infringe any patent, copyright, or other proprietary rights. In the event Contractor becomes aware of such an infringement, Contractor will replace the items that are the subject of the infringement with non-infringing items in a timely manner; and

3.11.2.5 that for one year from the date of any installation ("Warranty Period"), Contractor shall provide all parts, instruments, equipment, and goods required to complete all PM, RM, RCM, and Pd.M. required under this Agreement at no cost to the City. This warranty is in addition to Contractor’s obligation to provide Basic Services, and if requested, other Work Services under this Agreement. When the manufacturer’s warranty period for any parts, instruments, equipment, and goods is greater than 1 year, the longer period prevails.

3.11.3 Contractor shall manage and enforce on the City's behalf all manufacturer warranties issued before the Effective Date of this Agreement, during the Term of this Agreement, and any extensions. Contractor shall not be entitled to any additional compensation for the management and enforcement of these manufacturer warranties. If Contractor does not exhaust all remedies, including litigation, against a manufacturer who fails to honor all or a part of a warranty, it shall not receive additional compensation from the City for the labor and material costs it incurs to repair or replace the item that otherwise would have been under warranty.

3.11.4 Contractor further warrants that the operations and maintenance services performed by it or its subcontractors and the parts will be provided in a manner such that the HVAC Systems and CUP meet the performance standards of this Agreement, including without limitation, Section 27.0 in Exhibit “A”. If Contractor fails to achieve the warranted performance standards set forth in Section 27.0 in Exhibit “A”, payment under this Agreement shall be adjusted downward in accordance with Section 19.2 of Exhibit “A” hereto.

3.12 Performance Audit

3.12.1 At any time during the Term of this Agreement or any extensions, the Director, without notice to the Contractor and at HAS' expense, may provide for a third-party performance audit. Contractor shall rectify any deficiencies in performance discovered by such audit for which Contractor is responsible under this Agreement to the Director's satisfaction at no cost to the City within ten (10) days of receipt of a notice of any deficiency. Further, the Contractor shall provide the Director with a written explanation for such deficiency in performance and a plan to prevent future deficiencies within fifteen (15) days of receipt of such notice. Failure of the
Contractor to timely rectify the deficiency or provide the written explanation and plan to the Director shall be grounds for termination for cause as provided in Section V.

3.12.2 At any time during the Term of this Agreement or any extensions, the Director, without notice to the Contractor, may conduct his own inspections of Contractor's work performance, equipment, inventory, logs and Work sites. Contractor shall rectify any deficiencies discovered by such inspection to the Director's satisfaction within ten (10) days of receipt of a notice of any such deficiency at no cost to the City if caused by the Contractor or its subcontractors.

3.13 Confidentiality

3.13.1 Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, "the Information") that they receive, prepare, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall establish procedures to ensure confidentiality of the Information and to prevent its unauthorized use and disclosure. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors who perform work under this Agreement, which bind them to the terms in this paragraph.

3.14 Use of Work Products and Ownership; Works for Hire

3.14.1 Any interest of Contractor or its subcontractors in drawings, plans, specifications, studies, reports, memoranda, computations sheets, data, software, or other documents prepared by Contractor or its subcontractors in connection with this Agreement is or shall become property of and shall be transmitted to the City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities. City shall have the non-exclusive right to use or permit the use of all such data, software, related documentation, and papers and any ideas or methods represented thereby for the operation and maintenance of the HVAC Systems and CUP at any time without additional compensation to the Contractor. All materials to become part of the HVAC Systems and CUP including but not limited to, spare parts, equipment, expendables, and consumables inventory shall be and become property of the City upon delivery or upon being specially adapted for use in or as part of the HVAC System and CUP whichever occurs first. Contractor shall promptly furnish to City such bills of sale and other instruments as may be required by it, properly executed, acknowledged and delivered, assuring to it title to such materials, free from encumbrances and shall mark or otherwise identify all such materials as property of the City.

3.14.2 Any and all artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship created by Contractor or its subcontractors in connection with the Works performed under this Agreement shall be works for hire as defined under Title 17 of the United States Code, as may be amended, and all copyrights in such works are the property of the City. In the event that it is determined that any works created by Contractor or its subcontractors under this
Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City. With the approval of the Director, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

3.15 **Licenses and Permits**

3.15.1 Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by this Agreement, any statute, ordinance, rule, or regulation. This requirement includes, without limitation, certification of the on-site technicians. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against required licenses or certifications and the Contractor shall immediately remove such on-site technicians, employee, agent or subcontractor from performing any further services under the Agreement until such license is reinstated and in good standing.

3.16 **Compliance with Laws**

3.16.1 Contractor shall comply with all applicable state and federal laws and regulations, including without limitation, the Americans with Disabilities Act of 1990, as amended and OSHA; the City Charter and Code of Ordinances; and HAS' rules and regulations.

3.17 **Compliance with Equal Opportunity Ordinance**

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

3.18 **Minority and Women Business Enterprises Compliance**

3.18.1 Contractor shall comply with the City’s Minority and Women Business Enterprise (“MWBE”) programs as set out in Chapter15, 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 25% 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.

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

3.19 **Performance Bond**

3.19.1 Contractor shall, within ten (10) days of the date the Director issues the Notice to proceed to begin performance hereunder, furnish and maintain a performance bond in the amount of 100% of the annual applicable Agreement year conditioned on Contractor's full and
timely performance of the Agreement (and payment of subcontractors). Contractor shall maintain the bond throughout the Term and any exercised option years. The bond must be in substantially the form attached as Exhibit "E" and issued by a corporate surety authorized and admitted to write surety bonds in Texas. If the amount of the bond exceeds $100,000, the surety must be listed on the current list of accepted sureties on federal bonds published by the United States Treasury Department or reinsured for any liability in excess of $100,000 by a reinsurer listed on the U.S. Treasury list.

3.19.2 In addition to the termination rights set forth in Article V. D of this Agreement, should Contractor fail to provide the Performance Bond within the time set forth above, City shall have the right to withhold and retain any payments due Contractor without interest or penalty of any kind, until such time as an acceptable Performance Bond is provided to the City as required by this Agreement. At such time as a Performance Bond is given to the City, the withheld and retained payments shall be released by the City to Contractor in the next monthly billing cycle, without interest or penalty of any kind imposed upon City.

3.20 Drug Abuse Detection and Deterrence

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

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

3.20.2.1 A copy of its drug-free workplace policy,

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

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

3.20.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six (6) 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 "H." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within thirty (30) days of the expiration of each six (6) month period of performance and within thirty (30) days of completion of this Agreement. The first six (6) month period begins to run on the date the Director issues his Notice to proceed to begin performance under this Agreement.
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3.20.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

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

3.21 Environmental Laws

3.21.1 Contractor shall comply with all federal, state, and local statutes, ordinances, regulations, rules, policies, codes, or guidelines now or hereafter in effect, as they may be amended from time to time, that govern Hazardous Materials or relate to the protection of human health, safety, or the environment, including but not be limited to:


3.21.1.2 The Safe Drinking Water Act, 44 U.S.C. Section 300(f) et seq.;

3.21.1.3 The Oil Pollution Control Act of 1990, 33 U.S.C. Section 270 et seq.;


3.21.1.5 The Toxic Substances Control Act, 15 U.S.C., Section 2601 et seq.;

3.21.1.6 The Clean Air Act as amended, 42 U.S.C. 7401 et seq.;

3.21.1.7 The Clean Water Act, 33 U.S.C., Section 1251, et seq.;

3.21.1.8 The Hazardous Materials Transportation Act, 49 U.S.C., Section 1801 et seq.;

3.21.1.9 The Resources Conservation and Recovery Act, 42 U.S.C., Section 6901 et seq.;

3.21.1.10 and those substances defined as hazardous waste or as hazardous substances under the laws of Texas and/or the United States or in regulations promulgated under these laws (collectively, "Environmental Laws").

3.21.2 Within ten (10) days of receipt of an invoice, Contractor shall reimburse the City for any fines or penalties that may be levied against the City by the Environmental Protection Agency, the Texas Commission on Environmental Quality, or any other governmental agency for Contractor's (or its agents' and employees') failure to comply with the Environmental Laws.
3.21.3 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to or from the Airport, or any other areas or facilities subject to this Agreement, except in strict compliance with the Environmental Laws. "Hazardous Materials" include:

3.21.3.1 all substances, materials, wastes, pollutants, oils, or governmentally regulated substances or contaminants defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws,

3.21.3.2 asbestos and asbestos-containing materials, petroleum products including crude oil or any fraction thereof, gasoline, aviation fuel, jet fuel, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste, or

3.21.3.3 any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment when improperly generated, used, stored, handled, treated, discharged, distributed, disposed of, or released.

3.21.4 The Airport is subject to the National Pollution Discharge Elimination System Program ("NPDES"), and the regulations, 40 CFR Part 122, relating to storm water discharges, for operations at the Airport. Contractor is familiar with these NPDES storm water regulations, and shall conduct operations in accordance with 40 CFR Part 122, as amended from time to time. Contractor understands that there are significant penalties for submitting false information, including fines and imprisonment for knowing violations.

3.21.5 Close cooperation is necessary to ensure compliance with any NPDES storm water discharge permit terms and conditions, as well as to ensure safety and to minimize costs. Contractor shall implement Best Management Practices as defined in 40 CFR, Part 122.2, as amended from time to time, if necessary to minimize the exposure of storm water to significant materials generated, stored, handled, or otherwise used by Contractor as defined in the federal storm water regulations.

3.21.6 The City’s NPDES storm water discharge permit and any subsequent amendments, extensions, or renewals are incorporated into this Agreement. Contractor shall be bound by all applicable portions of the permit.

3.21.7 Contractor shall implement the NPDES requirements at its sole expense, unless otherwise agreed to in writing between the City and Contractor. Contractor shall meet all deadlines that may be imposed or agreed to by the City and Contractor. Time is of the essence.

3.21.8 If either party asks, the other party shall provide any non-privileged information submitted to a government entity(ies) under applicable NPDES storm water regulations.
3.21.9 Contractor appoints the City as its agent to negotiate with the appropriate governmental entity (ies) any modifications to the City’s permit.

3.21.10 Contractor shall participate in any City organized task force or other work group established to coordinate storm water activities at the Airport.

3.21.11 The City may enter upon Contractor’s Premises at any time for purposes of inspection to ensure that Contractor is complying with this Section and any other provisions in this Agreement without committing a trespass.

3.21.12 The City’s remedies with regard to Environmental Requirements are cumulative and survive termination of this Agreement.

3.21.13 WITH NO INTENT TO LIMIT CONTRACTOR'S INDEMNIFICATION TO THE CITY SET FORTH IN SECTION III (F), CONTRACTOR SHALL PROTECT, DEFEND AND INDEMNIFY THE CITY AND ITS OFFICERS, AGENTS, AND EMPLOYEES AGAINST ANY LOSS, COST, CLAIM, DEMAND, PENALTY, FINE, SETTLEMENT, LIABILITY, OR EXPENSE (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' AND CONSULTANTS' FEES, COURT COSTS, AND LITIGATION EXPENSES) RELATED TO:

3.21.13.1 ANY INVESTIGATION, MONITORING, CLEANUP, CONTAINMENT, REMOVAL, STORAGE, OR RESTORATION WORK PERFORMED BY THE CITY OR A THIRD-PARTY DUE TO CONTRACTOR’S, ITS EMPLOYEES’, OR AGENTS’ USE OR PLACEMENT OF HAZARDOUS MATERIALS (OF WHATEVER KIND OR NATURE, KNOWN OR UNKNOWN) ON THE AIRPORT PREMISES, OR ANY OTHER AREAS IMPACTED BY THIS AGREEMENT;

3.21.13.2 ANY ACTUAL, THREATENED, OR ALLEGED HAZARDOUS MATERIALS CONTAMINATION OF THE AIRPORT PREMISES BY CONTRACTOR, ITS EMPLOYEES, OR AGENTS;

3.21.13.3 THE DISPOSAL, RELEASE, OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY CONTRACTOR, ITS EMPLOYEES, OR AGENTS AT THE AIRPORT THAT AFFECTS THE SOIL, AIR, WATER, VEGETATION, BUILDINGS, PERSONAL PROPERTY, OR PERSONS;

3.21.13.4 ANY PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE (REAL OR PERSONAL) ARISING OUT OF OR RELATED TO HAZARDOUS MATERIALS USE BY CONTRACTOR, ITS EMPLOYEES, OR AGENTS AT THE AIRPORT; OR
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3.21.13.5 ANY VIOLATION BY CONTRACTOR, ITS EMPLOYEES, OR AGENTS OF ANY ENVIRONMENTAL LAWS.

3.21.14 THIS INDEMNITY IS NOT APPLICABLE TO LOSSES, CLAIMS, PENALTIES, FINES, SETTLEMENTS, LIABILITIES, AND EXPENSES THAT RESULT FROM CONDITIONS EXISTING ON THE EFFECTIVE DATE OF THIS AGREEMENT.

3.22 Airport Security and Badging

3.22.1 Contractor shall comply with all HAS, TSA, FAA and any other governmental agency security directives, rules and regulations. The FAA and/or the TSA may assess fines and/or penalties for Contractor’s non-compliance with the provisions of 49 CFR 1540 and 1542, as amended from time to time, or by other agencies for noncompliance with laws or regulations applicable to Contractor’s operations. Within 10 days of notification in writing, Contractor shall reimburse the City for any fine or penalty assessed against the City because of Contractor’s non-compliance with 49 CFR 1540 and 1542 or other applicable laws or regulations.

3.22.2 All on-site personnel of Contractor, including subcontractors, who perform services under this Agreement are required to undergo a fingerprint-based criminal history records check. Fingerprint will be collected at the Airport Badging Office and submitted electronically for investigation. At Contractor’s expense, Contractor shall obtain HAS security badges for its personnel performing services on-site, including its subcontractors’ personnel. On-site personnel shall wear identification badges at all times while on Airport property. Costs for the fingerprint-based criminal history records checks are reflected in the cost of the badges. Contractor is responsible for the cost of badges, including replacements thereof. Contractor personnel and its subcontractors losing badges will be charged for replacement badges at the then current rate.

3.23 Conflicts of Interest

3.23.1 If a potential or actual conflict of interests arises between the City’s interests and the interests of other clients Contractor represents, Contractor shall immediately notify the City Attorney by fax transmission or e-mail and request consent. The City shall be deemed to consent to the conflict unless the City Attorney sends a written notice that the City declines to consent within 3 business days after the City Attorney receives the notice. If the City does not consent, Contractor shall immediately take steps to resolve the conflict.

3.24 City’s Right to Stop Work

3.24.1 If Contractor fails to perform in accordance with this Agreement, the Director may order Contractor to stop performance, or any portion thereof. City may, after twenty-four (24) hours advance written notice to Contractor by Director, and without prejudice to any other remedy
available to City, perform the Work stopped by the Director. In such a case, an appropriate deduction shall be made from the payments then or thereafter due Contractor for the cost of the performance conducted by City, including the cost of additional services made necessary and performed by City for Contractor’s failure to perform. If the payments then or thereafter due Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City within ten days of receiving an invoice therefor.

3.25 Anti-Boycott of Israel

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

3.26 Zero Tolerance Policy for Human Trafficking and Related Activities

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

ARTICLE 4. DUTIES OF CITY

4.01 Payment Terms

4.01.1 Subject to all the terms and conditions of this Agreement, the City shall pay to Contractor, and Contractor accepts the fees specified in Exhibit "B," Fee Schedule, paid monthly, based upon invoices submitted to the Director from the Contractor indicating in detail the Work performed by Contractor (and its subcontractors) for the invoiced month. If Other Work/Services are required during the Term, hourly rates and fees will be based on the labor rates set forth in Exhibit “B”, subject to Section IV.E below.

4.01.2 If the City pays Contractor for work performed by any subcontractor or for parts, supplies, equipment, or materials provided by any supplier, and Contractor withholds or has withheld payment to the subcontractor or supplier because of a deficiency in the quality or quantity of that subcontractor’s or supplier’s work or materials, the City may withhold a corresponding amount from any pending or future payments to Contractor until the next regular payment to
Contractor occurring after the City receives reasonable documentation that the deficiency has been remedied.

4.01.3 All Contractor invoices are subject to approval by the Director and are due and payable on or about thirty (30) days after receipt and approval by the Director. The Director shall have the continuing right to request and receive from Contractor evidence which validates Contractor's invoices. All payments must be made by check made payable to Contractor. The City will not unreasonably delay or withhold payment or approval of any invoice. Neither payments made nor approval of invoices or services by the Director shall be construed as final acceptance or approval of that part of Contractor's services to which such payment or approval relates. Such payments do not relieve Contractor of any of its obligations under this Agreement.

4.02 Submitted False Claims, Monetary Penalties

4.02.1 Where the Contractor, or any of its subcontractors commit any of the following acts, the Contractor shall be liable to the City for the amount of damages which the City sustains because of the act of the Contractor or its subcontractors. The Contractor or its subcontractors who commits any of the following acts shall also be liable to the City for the costs, including attorney’s fees, of any civil action brought to recover any of those penalties or damages. (a) knowingly presents or causes to be presented to the City a false claim or request for payment or approval; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim or invoice paid or approved; (c) conspires to defraud the City by getting a false claim or invoice allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used as a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property of the City; (e) is a beneficiary of an inadvertent submission of a false claim or invoice to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim or invoice.

4.03 Taxes

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

4.04 Method of Payment - Disputed Payments

4.04.1 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed
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amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

4.05 Limit of Appropriation

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

4.05.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of $------------- (inclusive of the 10% change order contingency) to pay money due under this Agreement during the current fiscal year (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.

4.05.3 The City makes a supplemental allocation by sending a service release order, or similar form approved by the City Controller, containing the language set out below. When necessary the supplemental allocations shall be approved by motion or ordinance of City Council.

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

By signature below, the City Controller certifies that, upon request of the responsible director, the supplemental sum set out below has been allocated for the purposes of this 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.

$__________________

4.05.4 City Council delegates to the Director the authority to approve up to $---------------------- in supplemental allocations (inclusive of the 10% change order contingency) for this Agreement without returning to Council. The Original Allocation plus all supplemental allocations are the Allocated Funds, which include a 10% contingency in the amount of $________(inclusive of the 10% change order contingency appropriated as part of the Original Allocation). For purposes of Change Orders in Section IV.F. (3)(c)

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

4.06 Changes

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

4.06.2 The Director will issue the Change Order in substantially the following form:

**CHANGE ORDER**

TO: [Name of Contractor]

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

DATE: [Date of Notice]

SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

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

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

Signed:

[Signature of Director]

4.06.3 The Director may issue more than one Change Order, subject to the following limitations:

4.06.3.1 Council expressly authorizes the Director to approve a Change Order up to $50,000. A Change Order in excess of $50,000 must be approved by the City Council.
406.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor. 

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

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

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

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

4.07 Access to Site

4.07.1 Subject to FAA, TSA and HAS rules and regulations, Contractor may enter and leave Work sites at all reasonable times without charge. Contractor and its employees and subcontractors may use the common areas and roadways at the Airports where the Work sites are located. This excludes parking for Contractor’s personnel and subcontractors and does not extend to any restricted area of the Airport, including without limitation, the AOA, unless the person is properly badged or under HAS escort. Contractor shall repair any damage caused by it or its employees, suppliers or subcontractors as a result of their use of the common areas. The Contractor assumes all liability for any unauthorized incursions into restricted areas at the Airport. Contractor shall keep a record of all keys distributed to its employees and subcontractors.

4.07.2 City personnel and its authorized contractors shall, at all times, have access to the HVAC Systems and CUP and the Work. The Contractor shall provide whatever is necessary to facilitate such access, including but not limited to, personnel and equipment. Persons authorized by the City to access the HVAC Systems and CUP or Work shall not interfere with or jeopardize the Contractor’s responsibility for safely performing Work under this Agreement.
4.08 Exercise of Contract Responsibilities

4.08.1 The City, in exercising its responsibilities and authorities under the Agreement, does not assume any duties or responsibilities to any subcontractor or supplier, nor does City assume any duty of care to Contractor, its subcontractors or suppliers, except as may be expressly set forth herein or by law. However, City shall be entitled to performance and enforcement of Contractor’s obligations under this Agreement intended to facilitate performance of the City’s duties.

ARTICLE V. TERM AND TERMINATION

5.01 Contract Term

5.01.1 This Agreement is effective on the Effective Date and continues for three (3) consecutive years from the date set forth in the Notice to Proceed, unless sooner terminated under this Agreement. Performance begins on the date specified in the Notice to Proceed issued by the Director. Contractor acknowledges that time is of the essence of this Agreement.

5.02 Renewals

5.02.1 Upon expiration of the initial Term, and as long as the City makes sufficient supplemental allocations, this Agreement may be renewed at the request of the Director for two successive one-year terms plus one 90-day term under the same terms and conditions. If the Director elects to renew this Agreement, the Director shall notify Contractor in writing of non-renewal at least 30 days before the expiration of the then current term.

5.03 Termination for Convenience by City

5.03.1 The Director may terminate this Agreement at any time by giving thirty (30) days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.

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

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

5.04 Termination for Cause by City

5.04.1 If Contractor fails to perform under this Agreement, the Director may terminate this Agreement with said Contractor, retain another Contractor to assume the duties of this Agreement, and back charge said Contractor for costs incurred to correct the performance issue. Contractor performance measures to include, but not be limited to: one-month backlog of maintenance items, 12 repetitive maintenance tickets on equipment, and missing more than 12 response time durations over a rolling 12-month period on customer service impact systems (See Exhibit A for required Level of Service Response Times).

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

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

5.04.2.2 Contractor becomes insolvent;

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

5.04.2.4 A receiver or trustee is appointed for Contractor.

5.04.3 If a default occurs, the Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The Director, at his or her sole option, may extend the termination date to a later date. If the Director allows Contractor to cure the default and Contractor does so to the Director’s satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City.

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

5.04.5 If, after termination for failure to fulfill contract obligations, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the City.
of the City. In such event, Contractor shall be paid in accordance with the provisions of Section V.C. of the Agreement.

VI. MISCELLANEOUS

6.01 Independent Contractor

6.01.1 The City and HAS reserves the right to select multiple Contractors. Contractor is an independent contractor and shall perform the services provided for in this Agreement in that capacity. The City has no control or supervisory powers over the manner or method of Contractors' performance under this Agreement. All personnel Contractor uses or provides are its employees or subcontractors and not the City’s employees, agents, or subcontractors for any purpose whatsoever. Contractor is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes and all worker's compensation benefits coverage.

6.02 Force Majeure

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

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

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

   6.02.2.2 Provides the other party with prompt written notice of the cause and its anticipated effect.

6.02.3 The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the Director is final.
6.02.4 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

6.02.5 If the Force Majeure continues for more than 14 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.

6.03 Severability

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

6.04 Entire Agreement

6.04.1 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.

6.05 Written Amendment

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

6.06 Applicable Laws

6.06.1 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.

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

6.07 Notices

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

6.08 Captions

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

6.09 Non-Waiver

6.09.1 If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other’s breach of a term, that waiver does not waive a later breach of this Agreement.

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

6.10 Inspections and Audits

6.10.1 City representatives may perform, or have performed, (1) audits of Contractor’s books and records, (2) inspections of all places where Work is undertaken in connection with this Agreement, and (3) all costs and underlying expenses relating to Contractor’s performance, including but not limited to, all fees paid to Contractor. Contractor shall keep its books and records available for this purpose for at least 6 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

6.11 Enforcement

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

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

6.14 Publicity

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

6.15 Parties in Interest

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

6.16 Successors and Assigns

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

6.17 Business Structure and Assignments

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

6.17.2 Contractor shall not delegate any portion of its performance under this Agreement without the Director’s written consent.
6.18 Claims by Contractor

6.18.1 Should it appear to Contractor that the Work to be performed or any of the matters relative to the Agreement are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Agreement, the Contractor shall give written notice to the Director. Contractor shall bear all costs incurred in the giving of such notice. All issues regarding the interpretation of the Agreement shall be referred to the Director for interpretation. The Director shall have the right but not the obligation to affirm or disaffirm the interpretation, which affirmation or disaffirmation shall be final.

6.18.2 Should any dispute arise under this Agreement respecting the true value of any Work performed, of any Work omitted, of any extra Work which the Contractor may be required to perform, time extensions, respecting the size of any payment to the Contractor during the performance of the Agreement, or of compliance with Agreement provisions, said dispute shall be decided by the Director and his decision shall be final and conclusive. If the Contractor should disagree with the Director's decision, the Contractor's sole and exclusive remedy is to file a claim in accordance with this Section. Notwithstanding and pending the resolution of any claim and assuming the procedures set forth herein for Change Order Work and Other Service Requests Work, if relevant to this section, have been complied with by the Parties, the Contractor shall diligently prosecute the disputed Work to final completion. The provisions of this paragraph survive termination or completion of this Agreement. Contractor shall bear all costs incurred in the preparation and submission of a claim.

6.18.3 "Claim" means a written demand or written assertion by the Contractor seeking, as a matter of right, the payment of money, the adjustment or interpretation of Agreement terms, or other relief arising under or relating to the Agreement. In order to qualify as a "claim", the written demand must state that it is a claim submitted under this Section.

6.18.4 A voucher, invoice, payment application, or other routine or authorized form of request for payment is not a claim under the Agreement. If such request is disputed as to liability or amount, then the disputed portion of the submission may be converted to a claim under the Agreement by submitting a separate claim in compliance with the Agreement claim submission requirements.

6.18.5 The following procedures shall be followed when a claim is asserted by Contractor:

6.18.5.1 Should any clarification or determination, or any other event, in the opinion of the Contractor, exceed the scope of the Agreement, then the Contractor and the Director shall make good faith attempts to resolve any and all such claims and disputes. Before commencing the disputed Work, or within seven (7) days after such demand is made or instruction is given, whichever is earlier, the Contractor must file a written protest with the Director stating clearly and in detail its objection and reasons for contending the Work or interpretation is outside the requirements of the Agreement. If a written protest is not issued within this time period, or if the Contractor proceeds with the Work without first having given the notice required by this paragraph, the Contractor shall waive its rights to further claim on the specific issue.
6.18.5.2 The Director will review the Contractor's timely written protest and provide a decision. If, after receiving the decision, the Contractor disagrees with it or still considers the Work required of it to be outside of the requirements of the Agreement, it shall so notify the Director, in writing, within seven (7) days after receiving the decision, that a formal claim will be issued. Within thirty (30) days of receiving the decision, the Contractor shall submit its claim and all arguments, justification, cost or estimates, schedule analysis, and detailed documentation supporting its position. Failure to furnish notification within seven (7) days and all justifying documentation within thirty (30) days will result in the Contractor waiving its right to the subject claim.

6.18.5.3 Upon receipt of the Contractor's formal claim including all arguments, justification, cost or estimates, schedule analysis, and documentation supporting its position as previously stipulated, the director will review the issue and render a final determination.

6.18.6 The Contractor, under penalty of perjury under the laws of the State of Texas, shall submit with the claim it and its subcontractors' certification that:

6.18.6.1 The claim is made in good faith;

6.18.6.2 Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and

6.18.6.3 The amount requested accurately reflects the contract adjustment for which the Contractor believes the City is liable.

6.18.7 If a false claim is knowingly submitted, the City will be entitled to civil remedies as set forth in the Texas civil statutes. It may also be considered fraud and the Contractor may be subject to criminal prosecution.

6.18.8 In regard to any claim or portion of a claim for subcontractor Work, the Contractor shall fully review said claim and certify said claim, under penalty of perjury under the laws of the State of Texas, to have been made in good faith.

6.18.9 Failure to furnish certification as required hereinbefore will result in the Contractor waiving its right to the subject claim.

6.18.10 The Contractor shall submit the claim justification in the following format:

6.18.10.1 Cover letter and certification.

6.18.10.2 Summary of claim including:

6.18.10.2.1 Underlying Facts.

6.18.10.2.2 Entitlement.

6.18.10.2.3 Quantum Calculations.
6.18.10.2.3 Contract Provisions Supporting Relief.

6.18.10.3 List of documents relating to claim:

6.18.10.3.1 Specifications.
6.18.10.3.2 Drawings.
6.18.10.3.3 Clarifications/Requests for Information.
6.18.10.3.4 Correspondence.
6.18.10.3.5 Schedules.
6.18.10.3.6 Other.

6.18.10.4 Chronology of Events and Correspondence.

6.18.10.5 Analysis of Claim Merit.

6.18.10.6 Analysis of Claim Cost

6.18.10.7 Attachments: All documents listed in 3. Above.

6.18.12 Mediation: The Parties agree that any controversy arising out of this Agreement regarding a claim as aforementioned or any interpretation of this Agreement which the parties are not able to resolve themselves through negotiation shall be submitted to mediation before any other legal action is taken. The parties shall mutually agree upon a third party mediator. The costs and expenses of the mediation shall be borne equally by the parties, subject to approval by the City’s governing body and/or City Attorney. Mediation shall take place within two (2) weeks after notification by the aggrieved party of a request for mediation unless extended by the mediator. If the mediation does not result in an agreement acceptable to all sides, any party may take such other further action as it deems advisable under law or equity. In the event any party takes such other action except in the case of an emergency (such as the imminent structural loss of property or injury to person) without first submitting the issue(s) to mediation as required by this clause, that party shall pay the reasonable legal expenses and court costs incurred by the responding party in filing such responsive pleadings as are legally required.

6.18.11.1 In the event mediation is not successful, the parties may, prior to any legal action, agree upon another method of Alternate Dispute Resolution.

6.18.11.2 During the course of such negotiations, mediation, or any other Alternate Dispute Resolution process that may be mutually agreed upon, the parties agree that all Work hereunder shall be continued without interruption.

6.18.13 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.

6.19 Contractor Debt

6.19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

6.20 Pay or Play

6.20.1 The requirements and terms of the City of Houston Pay or Play program, as set-out in Executive Order 17, as revised from time to time, are incorporated into this Contract by reference. Contractor has reviewed Executive Order 1-7 and shall comply with its terms and conditions. Contractor shall include the foregoing language in its agreements with its subcontractors whose subcontracts have a dollar value of $200,000 or more. Consultant shall complete and submit to the Director POP-2 Form on or before execution of this Contract.

6.21 Title VI Assurances

6.21.1 The Contractor 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, the Contractor shall include the summary of the provisions of 49 CFR Part 21, as may be amended, in subcontracts it enters into under this Contract.