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2011-0274

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

I. PARTIES

A. Address

THIS AGREEMENT FOR FINANCIAL ADVISORY SERVICES ("Agreement") is made between the **CITY OF HOUSTON, TEXAS** ("City"), a home rule city of the State of Texas, and **FIRST SOUTHWEST COMPANY** ("Contractor" or "Financial Advisor"), a Delaware corporation doing business in Texas.

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

City	Contractor
Director of Finance or Designee City of Houston P.O. Box 1562 Houston, Texas 77251	First Southwest Company 700 Milam Street - Suite 500 Houston, Texas 77002 Attention: Michael Bartolotta

The Parties agree as follows:

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EXHIBITS

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C. Signatures

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

ATTEST/SEAL:

By: _____
Name: Drew Masterson
Title: Managing Director

FIRST SOUTHWEST COMPANY

By: _____
Name: WARREN P. CASH III
Title: SR. VICE PRESIDENT

ATTEST/SEAL:

_____
City Secretary

CITY OF HOUSTON, TEXAS
Signed by:

_____
Mayor

APPROVED:

_____
Director, Finance Department

COUNTERSIGNED BY:

_____
City Controller

APPROVED AS TO FORM:

_____
Sr. Assistant City Attorney
L.D. File No. 0071100002001

DATE COUNTERSIGNED:

4/28/11

II. DEFINITIONS

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

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

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

"Closing" shall mean the date and time at which the City receives the benefit or proceeds of the sale or negotiation of bonds, notes or other evidence of its indebtedness.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.

"Director" means the Director of the Department of Finance, or the person he or she designates.

"Documents" mean notes, manuals, notebooks, computations, databases, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, financial models, forms, photographs, and other work products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement.

"Elected City Officials" means the Mayor, City Council Members and the City Controller.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

"Public Financing" shall mean the sale, or offering of bonds, notes, leases or other evidence of indebtedness of the City.

"Special Financing" shall mean the restructuring or conversion of bonds, notes, leases or other evidence of indebtedness of the City; including but not limited to the conversion of indebtedness of the City between fixed and variable rate structures, tender negotiations, and structuring of alternative financial instruments. Special Financing shall not include any non-financial services.

III. DUTIES OF CONTRACTOR

A. Scope of Services

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

B. Coordinate Performance

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.

C. Payment of Subcontractors

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

D. **RELEASE**

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.

E. Insurance

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

(1) Risks and Limits of Liability. Contractor shall maintain the following coverages and limits of liability:

(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: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury and Property Damage, Combined Limits of $500,000 each Occurrence and $1,000,000 aggregate
Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Non-Owned and Hired Auto Coverage)	$1,000,000 combined single limit
Professional Liability Coverage	$1,000,000 combined single limit

Defense costs are excluded from the face amount of the policy.
Aggregate Limits are per 12-month policy period
unless otherwise indicated.

(2) Form of Policies. The Director may approve the form of the insurance policies, but nothing the Director does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Director's actions or inactions do not waive the City's rights under this Agreement.

(3) Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, Property-Casualty United States.

(4) Insured Parties. Each policy, except those for Workers' Compensation, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.

(5) Deductibles. Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.

(6) Cancellation. **THE CONTRACTOR MUST GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE CITY BEFORE ANY POLICY IS CANCELED, MATERIALLY CHANGED, OR NONRENEWED.** Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or nonrenewed so as to maintain in effect the required coverage. The acceptance of delivery by the Director of any Certificates of Insurance evidencing the insurance coverages and limits required in the Agreement does not constitute approval or agreement by the City that the insurance requirements of this Agreement have been met or that the insurance

policies evidenced by the Certificates are in compliance with the requirements of this Agreement.

(7) Subrogation. Each policy, except Professional Liability, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.

(8) Endorsement of Primary Insurance. Each policy, except Workers' Compensation and Professional Liability, must 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.

(9) Liability for Premium. Contractor shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.

(10) Subcontractors. Contractor shall require all subcontractors, unless waived by the City Attorney, to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than $500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Director.

(11) Proof of Insurance.

(a) On the Effective Date and at any time during the Term of this Agreement, Contractor shall furnish the Director with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Director, Contractor shall furnish the City with certified copies of Contractor's actual insurance policies.

(b) Contractor shall continuously and without interruption, maintain in force the required insurance coverages specified in this Section. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may

(1) immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

(2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

The City shall never waive or be estopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

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

F. Warranties

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

G. Confidentiality - Protection of City's Interest

Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, "the Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section. It is understood that normal communications with rating agencies and bond insurance companies of financial

data of the City are permitted. The Contractor shall comply with regulatory records requests and, except as prohibited by law, provide notice of a response to a request.

H. Use of Work Products

(1) The City may use all "Documents" that Contractor prepares or obtains under this Agreement.

(2) Contractor warrants that it owns the copyright to the Documents.

(3) The Contractor shall keep copies of all pertinent documents as required by regulatory bodies.

I. Licenses and Permits

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

J. Compliance with Laws

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

K. Compliance with Equal Opportunity Ordinance

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

L. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence

Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

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

(a) a copy of its drug-free workplace policy,

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

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

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "E." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

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

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

M. Conflicts of Interest

The Contractor shall not offer its services or provide services to any other parties (directly or indirectly) if the same would cause any conflict of interest for the Contractor; provided, however, the City acknowledges that the Contractor presently represents and provides fiscal advice to counties, cities, independent school districts, Municipal Utility Districts, transportation entities, the Harris County-Houston Sports Authority, the Houston Convention Center Hotel Corporation and other political subdivisions, which representations shall not be deemed conflicts of interest per se, but may be deemed conflicts of interest as to specific representations.

The Contractor shall not be permitted to participate directly or indirectly, in the purchase, negotiated sale, or private placement of the City's bonds. However, the Contractor shall be permitted to act as an underwriter for competitively bid City Bond issues where the Contractor does not serve as the Financial Advisor.

N. MWBE Compliance

Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 24% of the value of this Agreement to MWBEs that comply with the subcontractor requirements of this Contract. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "F". If

Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is $50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

O. Pay or Play

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

IV. DUTIES OF CITY

A. Payment Terms

For the services described in Exhibit "A", the City shall pay Contractor on the basis of an annual retainer, paid quarterly in arrears, for the Systems as described in the attached Exhibit "G" Fee Structure, plus reimbursable expenses as set forth below, if any, with the first payment period beginning on May 1, 2011. Payment may be made from funds allocated to this Agreement or cost of issuance funds.

B. Expenses and Reimbursement

Reimbursable expenses include the following:

(1) the ordinary and reasonable cost, including any sales tax Contractor and/or subcontractor is legally required to pay, for copying, printing, postage, running computer analyses, messages, delivery services, long distance telephone calls, and any additional expenses approved by the Director that were incurred under this Agreement; and

(2) any ordinary and reasonable costs associated with the issuance of the City's securities and which are paid by Contractor (including, by way of example and

without limiting to the foregoing, such items as CUSIP fees and fees charged for electronic distribution of offering documents); and

(3) the ordinary and reasonable costs of travel to points outside of Houston by Contractor's representatives or subcontractors if the travel is reasonably necessary to accomplish a task and authorized by the Director.

C. Method of Payment

The City shall pay on the basis of quarterly invoices submitted by Contractor and approved by the Director, itemizing the services performed and including any reimbursable expenses incurred, itemized by System and/or Public Financing. In an effort to stay aligned with the City's standard operating procedures for payment of invoices which are on a calendar quarter basis, the first invoice will be for services rendered during the months of May and June, 2011, and the subsequent invoices will be submitted quarterly starting with the month of July 2011 throughout the term of this Agreement. The City shall pay Contractor within 30 days of the receipt and approval of the invoices.

D. Taxes

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

E. Limit of Appropriation

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

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum

of **$132,750.00** to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

(3) The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

By the signature below, the City Controller certifies that, upon the request of the responsible 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) The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

F. Access to Data

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

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

V. TERM AND TERMINATION

A. Term

This Agreement is effective on May 1, 2011 and remains in effect until April 30, 2014, unless sooner terminated under this Agreement ("Initial Term"). It is specifically agreed that the Contractor shall not be obligated to perform any services under or pursuant to this Agreement and the City shall not be obligated to make any payments for services performed after the expiration of the Initial Term, unless: (a) the Contractor has been requested by letter from the Director (identifying the type of issue, the approximate principal amount and the estimated delivery date) which shall have been received more than thirty days prior to the end of the Initial Term of this Agreement, to begin Public Financing related services for a specific financing issue or issues in which case the Contractor shall complete such Public Financing related services on the specific financing issue or issues so begun; or (b) there is a previously-scheduled meeting or event, in which case the Contractor shall provide marketing services in connection with such meeting or event; or (c) the City exercises its option to renew this Agreement.

B. Renewals

If the Director, at his or her sole discretion, makes a written request for renewal to Contractor 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 may be renewed for up to two successive one-year terms upon the same terms and conditions.

C. Time Extensions

If Contractor requests an extension of time to complete its performance at the end of the Initial Term or at the end of any of the renewal terms, then the Director may, in his or her sole

discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

D. Termination for Convenience by City

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

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

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

E. Termination for Cause

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:

(1) Contractor fails to perform any of its duties under this Agreement;

(2) Contractor becomes insolvent;

(3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

(4) a receiver or trustee is appointed for Contractor.

If a default occurs, the 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.

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.

F. Termination for Cause by Contractor

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

least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

VI. MISCELLANEOUS

A. Independent Contractor

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

B. Severability

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

C. Entire Agreement

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

D. Written Amendment

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

E. Applicable Laws

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

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

F. Notices

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.

G. Captions

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.

H. Non-Waiver

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

An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard

of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

I. Inspections and Audits

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

J. Enforcement

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

K. Ambiguities

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

L. Survival

Contractor shall remain obligated to the City under all 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.

M. Publicity

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.

N. Parties In Interest

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

O. Successors and Assigns

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

P. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the 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 §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.

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

Q. Remedies Cumulative

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

R. Contractor Debt

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

CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

EXHIBIT "A"

SCOPE OF SERVICES

A. Services in General

a. The Financial Advisor shall provide reasonable and necessary financial advisory services to the City during the term of this Agreement, in connection with the General Obligation, Houston Airport System, Combined Utility System and the Convention and Entertainment Facility debt and related Special Financings of the City. The financial advisory services to the City shall exclude coverage for general advisory services related to swaps and other derivative products, but not excluding consideration of swaps and other derivative products directly relating to other obligations set forth in this Agreement. Services related to advising the City on the risks, fair valuation and execution specifics of derivatives are outside of the scope of this Agreement.

   i. General services include, but are not limited to, new-money bonds sold on a competitive and negotiated basis, pre-pricing and post-pricing analysis of competitive and negotiated sales, refunding analysis and other debt restructurings, managing the process for securing and negotiating new credit facilities, re-investment analysis, development of debt management policies and procedures, monitoring of secondary-market activities, training, assistance in the procurement of debt management-related services, and analysis of debt management-related fees.

b. In connection with these services, it is specifically understood and agreed that the Financial Advisor's obligations to perform under this Agreement and all of the City's obligations to pay money under this Agreement are limited by, and shall be subject to the provisions of this Agreement.

c. The Financial Advisor shall coordinate its performance of the services hereunder with the Director and such other persons as the Director may specify under the provisions of the Procedures For The Sale of City Bonds, Notes and Other Financing Instruments, finally adopted by Motion No. 87-1853.

d. The Financial Advisor may, upon request, provide periodic verbal reports to conditions, transactions, situations or circumstances encountered by the Financial Advisor relating to the services to be performed under this Agreement and shall attend meetings determined to be necessary by the Director upon reasonable notice thereof.

e. It is understood and agreed that the City will pay all costs of issuance related to the offering, sale, closing and delivery of the City's obligations.

B. Financial Services

a. Work Plan

i. Within sixty (60) days after the Countersignature Date, the Financial Advisor shall develop and submit to the Director for review and approval a preliminary 12 month work plan for the delivery and timing of the services hereinafter described. Within thirty (30) days after receipt by the Financial Advisor of the Director's comments concerning the preliminary 12 month work plan, the Financial Advisor shall submit to the Director for review and approval the work plan which incorporates the Director's comments after consultation with the Financial Advisor. The Financial Advisor shall update and submit to the Director for review and approval a 12 month work plan at the beginning of each calendar quarter.

ii. The parties recognize and agree that the work plan may be subject to revision during the term of this Agreement, but there shall be no substantial revision of or variation from the terms of the work plan without the knowledge and written approval of the Director and the Financial Advisor.

b. Public Financing Related Services

i. The Financial Advisor shall assist in coordinating the City's Finance Working Group and perform the following services, when appropriate, in connection with negotiated sales, competitive sales, and private placements of bonds and/or notes:

1. Assist financing activities and work with the City's financial officers in planning and developing individual financing programs, including, assistance in the preparation, content, design, printing and distribution, of official statements, notice of sales, offering memorandum and such other materials as are customarily necessary to prepare for the issuance of obligations, such as cash flow projections, and structuring analysis.

2. Develop and present specific recommendations as to the details of the issuance, including, but not limited to, structuring, principal amounts, dates, interest rates, maturity schedules, call features, escrow structuring, revenues, flow of funds, debt-service coverage requirements, debt service reserve requirements, municipal bond insurance, surety policies, related swaps or other derivative products (but not including analysis of risks, fair valuation services, or advice on execution of swaps, unless covered by a separate or supplemental agreement for those services between the City and the Contractor), credit and liquidity facilities, remarketing agreements,

security provisions and protective and other covenants to be included for the benefit of the City.

3. Develop, update, and distribute a detailed schedule for the Finance Working Group's issuance schedule of meetings, activities and deliverables.

4. Provide assistance, as appropriate, to the City, selected underwriters, bond counsel, special disclosure counsel, and other consultants in connection with the issuance up to and including the day of delivery.

5. Assist in the procurement of municipal bond insurance and/or surety policies, as needed.

6. Monitor secondary market activities.

7. Provide rating agency presentation support and coordination including:

   a. The preparation of discussion points,

   b. The preparation and delivery of comprehensive documents to the rating agencies prior to the presentation,

   c. The preparation of a well organized, structured presentation, and

   d. Planned follow-up conversations.

   e. Distribute all rating agency letters to Finance Working Group participants.

8. Specific to negotiated sales:

   a. Provide general advice to the City regarding pricing structures, timing, and marketing efforts prepared by and recommended by underwriters.

   b. Assist in evaluating the appropriateness of the underwriter's gross spread.

   c. In coordination with the underwriters, design and implement a marketing program for the financing to alert investors; to generate interest in purchasing the bonds and/or notes; and to induce the most favorable response to the City's offering.

All services under this section shall be coordinated with the Director and shall be subject to review by the City's public finance attorneys if the Director determines it is to be necessary or desirable.

d. Provide pre-pricing and post-pricing analysis.

9. Specific to competitive sales:

a. Design and implement a marketing program for the financing to alert investors; to generate interest in purchasing the bonds and/or notes; and to induce the most favorable response to the City's offering. All services under this section shall be coordinated with the Director and shall be subject to review by the City's public finance attorneys if the Director determines it is to be necessary or desirable.

10. Specific to private placements:

a. Assist in the preparation of and distribution of Requests for Indication of Interest or Request for Proposals, as appropriate, and present specific recommendations in the evaluation and negotiation process of the placement.

b. Assist in evaluating the appropriateness of the potential investor's structure and pricing proposal.

ii. The Financial Advisor shall assist in coordinating the City's Finance Working Group and perform the following services in connection with securing and negotiating new credit facilities and managing the credit renewal process:

1. Assist in the preparation of and distribution of Requests for Indication of Interest or Request for Proposals, as appropriate.

2. Assist financing activities and work with the City's financial officers in planning and developing individual financing programs, including, assistance in the preparation and negotiation of terms and conditions and such other materials as are customarily necessary.

3. Develop and present specific recommendations as to the details of the credit facilities, including, but not limited to, structuring, principal amounts, facility term, pricing, termination features, term-out provisions, closing requirements, security provisions and protective and other covenants to be included for the benefit of the City.

4. Provide assistance, as appropriate, to the City, selected financial institutions, legal counsel, special disclosure counsel, and other consultants in connection with the credit facilities up to and including the countersignature date.

c. Special Services

The Financial Advisor shall also provide assistance, examination and analysis of miscellaneous Special Financings as determined to be necessary by the Director upon reasonable notice thereof.

d. Other Services

i. The Financial Advisor shall also provide the following services:

1. Complete, annually and upon request, review of the City's capital requirements and resources available and an analysis of the City's financial capacity including:

a. Consulting with City staff, auditors, engineers, attorneys, and other related professionals.

b. Reviewing the City's debt capacity.

c. Analyzing the City's revenue sources to determine their effect on the City's credit rating.

d. Reviewing the City's current policy and practice of payment of, and reserving for, debt service.

e. Analyzing the City's strengths and weaknesses in credit and debt design.

f. Monitor the market for the viability of credit enhancement.

2. Assist the City's debt management process including:

a. Preparing a summary of the City's debt each April 1st and subsequent to significant changes to the City's debt including but not limited to summaries of future debt service, facility expiration dates, and historical trends.

b. Establishing general policies concerning early debt retirement or refunding.

c. Providing refunding, other debt restructuring, debt management-related fees and re-investment analyses.

d. Preparing guidelines for new issue designs.

e. Making recommendations regarding general debt planning, (i.e. separation of the timing of issuance from cash flow needs, optimization of the City's debt service structure and an assessment of alternative security structures).

f. Assist in the creation of selection criteria for rating agencies and credit providers when requested by the Director.

g. Assisting the City in analyzing changes in federal and state legislation or regulations affecting long-range debt financing.

h. Assist in the procurement of debt management-related services.

3. Examine and advise the City in the development of creative financing alternatives.

4. Work with City personnel to develop in-house financial advisory capability including:

a. Analytical tools and concerns.

b. Rating agency, analyst and investor relations.

c. Enhanced knowledge through workshops related to Public financing issues.

5. Assist the City in financial analysis regarding proposed annexation of utility districts, proposed propositions and/or ballot initiatives, economic development authority debt issuance, and debt issuance of other entities directly impacting the City.

6. Maintain contact with financial institutions who might serve as credit enhancers or providers specifically on behalf of the City, as appropriate, for existing or proposed debt financings.

7. Maintain an ongoing market development program to alert underwriters and investors to pending sales; to generate interest in purchasing the City's bonds; and to generate the most favorable response to the City's offerings. All services under this section shall be coordinated with the Director and shall be subject to review by the City's public finance attorneys if the Director determines it is to be necessary or desirable.

8. Maintain a list of major debt holders, including their address and key individuals.

C. Local Presence Clause

With respect to the Financial Advisory Services, Contractor shall have had a local authorized business facility located within the City of Houston as of the date of Contractor's response to the Request for Proposal to the services herein and shall also continue to have an authorized business facility present within the City of Houston for the five successive years of the Agreement term. The facility shall support the demand of City's requirements set forth in this Agreement.

EXHIBIT "B"

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause 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 No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed

at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "C"

DRUG POLICY COMPLIANCE AGREEMENT

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

_____ (Contractor)
(Name of Company)

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

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).

2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.

3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.

4. Submit semi-annual Drug Policy Compliance Declarations.

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

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

_____
Date

_____
Contractor Name

_____
Signature

_____
Title

EXHIBIT "D"

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

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

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

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved

in performing _____.
(Project)

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

_____
(Date)

_____
(Typed or Printed Name)

_____
(Signature)

_____
(Title)

EXHIBIT "E"

DRUG POLICY COMPLIANCE DECLARATION

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

_____ (Contractor)
(Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 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 Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

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

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

_____ Initials — From _____ to _____ the following test has occurred
(Start date) (End date)

	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 "F"
MWBE SUBCONTRACT TERMS

Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "**THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT**" and contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director").

2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of subcontractor's books and records, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep its books and records available for inspection for at least 4 years after the end of its performance under this subcontract. Nothing in this provision shall change the time for bringing a cause of action.

3. Within 5 business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given under Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of the agent.

4. Any controversy between the parties involving the construction or application of any of the terms, covenants, or conditions of this subcontract must, upon the written request of one party served upon the other or upon notice by the Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration must be conducted according to the following procedures:

a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within 30 days or the matter may be referred to arbitration.

b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with the American Arbitration Association on file in the City's Affirmative Action Division Office.

c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.

d. If the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

EXHIBIT "G"

FEE STRUCTURE

FINANCIAL ADVISORY SERVICES

Based on the scope of services outlined herein and the City's desire to compensate Financial Advisor on the basis of an annual retainer, the City shall pay the following fee structure for each type of enterprise or general fund financial advisory service, as described below:

SYSTEMS	FY 2011	FY 2012	FY 2013
General Obligation/General Fund	$40,500	$243,000	$243,000
Houston Airport System	$40,500	$243,000	$243,000
Combined Utility System	$40,500	$243,000	$243,000
Convention & Entertainment Facility Dept.	$11,250	$ 67,500	$ 67,500
Total:	$132,750	$796,500	$796,500

	FY 2014	FY 2015	FY 2016
General Obligation/General Fund	$243,810	$248,686	$210,681
Houston Airport System	$243,810	$248,686	$210,681
Combined Utility System	$243,810	$248,686	$210,681
Convention & Entertainment Facility Dept.	$ 67,725	$ 69,080	$ 58,523
Total	$799,155	$815,138	$690,566

The above retainer fees shall be invoiced quarterly and paid quarterly in arrears by the City. In an effort to stay aligned with the City's standard operating procedures for payment of invoices which are on a calendar quarter basis, the first invoice will be for services rendered during the months of May and June, 2011, and the subsequent invoices will be submitted quarterly starting with the month of July 2011 throughout the term of this Agreement.

In addition to the above, the following fee structure is adopted at no cost to the City for the services described below:

- Maintenance and Surveillance Services. Online FairValue Advisor Services shall be provided at no cost to the City for the City's four swaps in existence at the time this Agreement becomes effective. Financial Adviser shall waive the one-time setup fee of $1,500 per swap and the annual subscription fee of $2,500 per swap for the four existing swaps during the term of this Agreement.