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CITY OF HOUSTON
AND
BLACK & VEATCH CORPORATION
CONTRACT
FOR
WATER LOSS AUDIT-REVENUE ENHANCEMENT SERVICES

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CONTRACT

FOR

WATER LOSS AUDIT-REVENUE ENHANCEMENT SERVICES

THE STATE OF TEXAS §

§

COUNTY OF HARRIS §

THIS CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES is made on the date countersigned by the City Controller, by and between the **CITY OF HOUSTON, TEXAS** (the "City"), a municipal corporation and home-rule city of the State of Texas principally situated in Harris County, and **BLACK & VEATCH CORPORATION** (the "Engineer"), acting by and through its duly authorized officer. The initial addresses of the parties, which one party may change by giving notice to the respective other party, are as follows:

<u>City</u>	<u>Engineer</u>
Director	John M. Chevrette
Department of Public Works & Engineering	President, Black & Veatch Management Consulting
City of Houston	BLACK & VEATCH CORPORATION
P.O. Box 1562	8400 Ward Parkway
Houston, Texas 77251	Kansas City, Missouri 64114

RECITALS

WHEREAS, the City desires to obtain professional engineering services in connection with the planning and design of the Project hereinafter described; and

WHEREAS, the Engineer desires to provide such services in exchange for the fees hereinafter specified;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein contained, it is agreed as follows:

ARTICLE 1

GENERAL

- 1.1 **Definitions:** As used in this Contract, the following terms shall have the meanings set out below. Additional terms are defined in Exhibit "A".
- 1.1.1 **City:** As defined in the preamble of this Contract, including its successors and assigns.
- 1.1.2 **Contract:** This agreement between Engineer and the City.
- 1.1.3 **Countersignature Date:** The date the Houston City Controller countersigns this Contract.
- 1.1.4 **Director:** The Director of the Department of Public Works and Engineering, or such other person designated from time to time by the Director by notice to Engineer to administer this Contract on behalf of the City.
- 1.1.5 **Documents:** The reports, charts, analyses, maps, letters, tabulations, exhibits, notes, models, photographs, the original transparencies of all drawings, Construction Documents, computer programs including source and object codes, and other work products obtained by or prepared by Engineer as part of its services under this Contract. The Director shall specify the medium and format in which Engineer shall provide such documents.
- 1.1.6 **Engineer:** As defined in the preamble of this Contract, including its successors and assigns.
- 1.1.7 **Notice to Proceed:** A written communication from the Director that authorizes Engineer to begin performance of work, containing the following: Multiple Notices to Proceed should be anticipated for contracts that include multiple projects/subprojects.
- 1.1.7.1 A declaration that the City has allocated adequate funds for that phase or service;
- 1.1.7.2 The Negotiated Lump Sum for all work described in the Notice to Proceed;
- 1.1.7.3 A work description for each service Engineer, Consultants, or suppliers will perform under the Notice to Proceed;
- 1.1.7.4 The maximum cost and portion of the Negotiated Lump Sum associated with each work description;
- 1.1.7.5 Whether the work description represents a Basic or Additional Service;
- 1.1.7.6 The phase of the Project to which the work is attributable, and
- 1.1.7.7 Acceptance of the preceding Phase, when applicable.
- 1.1.8 **Project:** As identified in the title of this Contract.
- 1.1.9 **Project Schedule:** The schedule of project activities and events, showing initiation point, duration, and ending points using the form attached as Exhibit "B". The schedule will indicate time to be allowed for reviews by the City staff. The Project Schedule shall be drafted by Engineer in consultation with the Director, approved by the Director, and updated monthly at the time of invoice submittal.
- 1.1.10 **Reimbursable Expenses:** Reimbursable Expenses are limited to the following: (1) The ordinary and reasonable cost of copying, printing, postage, delivery services, long distance telephone calls and any additional expenses listed in Exhibit "D" incurred by the Engineer in the course of his performance of services under this Contract, including any sales tax Engineer is legally required to pay for Reimbursable Expenses; and (2) the ordinary and reasonable costs of travel including meals and lodging to and from points outside of Houston by representatives of the Engineer, not-to-exceed the amounts established under the City's then current travel reimbursement policy for its employees, if such travel is reasonably necessary to accomplish a task and authorized by the Director.

- 1.1.11 **Subcontractor (also "Consultant"):** The professional Consultant or other professional entity subcontracted by Engineer to provide a portion of engineering services required under the City-Engineer Contract.
- 1.1.12 **Subcontract Cost:** The ordinary and reasonable cost of subcontract made by Engineer and approved by the Director for the principal purpose of obtaining the professional services of others in connection with the performance of any service under this Contract.
- 1.1.13 **Subcontractor Markup:** A markup factor of eight percent (8%), which Engineer may apply only to subcontract invoices for services performed by the Subcontractor. Engineer shall not apply any Subcontractor Markup to engineering and administrative services performed by Engineer.

ARTICLE 2
DUTIES OF ENGINEER

- 2.1 **Services in General:** Engineer shall provide the City the specific tasks set forth in this Article and the professional engineering services described in Exhibit "A" for the fees hereinafter specified. Engineer shall perform its work in accordance with the professional skill and care ordinarily provided by competent engineers, practicing in the same or similar locality and under the same or similar circumstances and professional license; and as expeditiously as is prudent considering the ordinarily professional skill and care of a competent engineer. In the event of an inconsistency between the terms of this Article and the terms of Exhibit "A", exclusively with respect to the content of the scope of services and required submission documents, the terms of Exhibit "A" shall control.
- 2.2 **Coordinate Performance:** Engineer shall coordinate all of its performance with the Director and such other person(s) as the Director may specify. Engineer shall keep such person(s) advised at a minimum on a biweekly basis of developments relating to the performance of this Contract, and Engineer shall at all appropriate times advise and consult with the Director.
- 2.3 **Time of Performance:** The time of performance for Engineer to complete the services listed in Exhibit "A" will be provided in the Notice to Proceed. Engineer acknowledges that time is of the essence.
- 2.4 **Consultants:** Engineer shall not subcontract any part of its Contract without approval by the Director. Engineer shall be responsible for services performed by Consultants to the same extent as if the services were performed by Engineer. Engineer shall replace any Consultant when requested to do so by the Director, who shall state the reasons for such request. Engineer shall provide the Director with a copy of any of its Consultant subcontracts at Director's request.
- 2.5 **Payment of Consultants:** Engineer shall make timely payments to all persons and entities supplying labor, materials or equipment for the performance of this Contract in accordance with the State of Texas Prompt Payment Act. Engineer agrees to protect, defend, and indemnify the City from any claims or liability arising out of Engineer's failure to make such payments. Disputes relating to payment of MWBE subcontractors shall be submitted to mediation in the same manner as any other disputes under the MWBE subcontract. Failure of Engineer to comply with the decisions of the mediator may, at the sole discretion of the City, be deemed a material breach leading to termination of this Contract.
- 2.6 **Insurance**
 - 2.6.1 **Risks and Limits of Liability.** Engineer shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
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Workers' Compensation	<ul style="list-style-type: none"> • Statutory for Workers' Compensation
Employer's Liability	<ul style="list-style-type: none"> • Bodily Injury by Accident \$100,000 (each accident) • Bodily Injury by Disease \$100,000 (policy limit) • Bodily Injury by Disease \$100,000 (each employee)
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	<ul style="list-style-type: none"> • Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$1,000,000 aggregate
Automobile Liability	<ul style="list-style-type: none"> • \$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos
Professional Liability Coverage	<ul style="list-style-type: none"> • \$2,000,000 per claim/occurrence
Excess Liability applicable to Commercial General Liability, and Automobile Liability	<ul style="list-style-type: none"> • \$1,000,000
Aggregate Limits are per 12-month policy period unless otherwise indicated.	

- 2.6.2 **Insurance Coverage.** At all times during the term of this Contract and any extensions or renewals, Engineer 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, Engineer shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing adequate coverage, as necessary. Engineer shall be responsible for and pay (a) all premiums and (b) any claims or losses to the extent of any deductible amounts. Engineer waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Engineer shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except amount. The amount must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.
- 2.6.3 **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.
- 2.6.4 **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. Engineer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Engineer'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, Engineer 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.

2.6.5 Notice. ENGINEER 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 Engineer does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.

2.7 INDEMNIFICATION. ENGINEER AGREES TO AND SHALL, TO THE EXTENT PERMITTED BY TEXAS LOCAL GOVERNMENT CODE §271.904, 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 ARISING AS A RESULT OF ENGINEER'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONSULTANTS', OR SUBCONTRACTORS' ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS IN CONNECTION WITH ITS PERFORMANCE UNDER THIS AGREEMENT, WHETHER ENGINEER IS IMMUNE FROM LIABILITY OR NOT. ENGINEER SHALL INDEMNIFY AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. THE INDEMNITY SHALL APPLY WHETHER OR NOT THE EVENT IS CAUSED BY THE CONTRIBUTORY NEGLIGENCE OF THE CITY.

2.8 Ownership of Documents: Engineer shall grant and assign and hereby does grant and assign to the City all right, title, interest and full ownership worldwide in and to any work, invention and all Documents, including Construction Documents, or any modifications or improvements to them, and the copyrights, patents, trademarks, trade secrets, source and object codes and any other possessory or proprietary rights therein, that are discovered, conceived, developed, written or produced by the Engineer, its agents, employees, contractors and subcontractors pursuant to this Contract (collectively, the "Works"), to have and to hold the same unto the City absolutely. This right of ownership shall include the City's ability to modify, sell, or license all computer programs, including all access to programming codes necessary to do so.

2.8.1 Engineer agrees that neither it nor any of its agents, employees, contractors or subcontractors shall have any right to assert or establish a claim or exercise any of the rights embodied in any copyrights, patents, trademarks, trade secrets and any other possessory or proprietary rights related to the Works. If requested by the Director, the Engineer shall place a conspicuous notation upon any such Works which indicates that the copyright, patent, trademark or trade secret thereto is owned by the City of Houston.

2.8.2 Engineer shall execute all documents required by the Director to further evidence such assignment and ownership. Engineer shall cooperate with the City in registering, creating or enforcing any copyrights, patents, trademarks, trade secrets or other possessory or proprietary rights arising hereunder. If any assistance by the Engineer is requested and rendered pursuant to this Section, the City shall reimburse Engineer for all out-of-pocket expenses incurred by Engineer in rendering such assistance. On termination of this Contract or upon request by the Director, Engineer shall deliver all Works to the City. Engineer shall obtain written agreements in the form specified in Exhibit "I" from its agents, contractors and subcontractors performing work hereunder which bind them to the terms contained in this Section.

2.8.3 The Engineer may, however, retain copies of such Documents. The Engineer shall have the right to use such copies internally, but the Engineer may not sell, license or otherwise market such Documents. Upon request by the Director, the Engineer shall deliver such Documents to the City.

2.8.4 Engineer does not represent that the Documents are or are intended to be, suitable for use on other Projects or extensions of this Project, to the extent that the Documents are site-specific. Any modification to the Engineer's work product or unintended use of same will be at the sole risk of the City.

- 2.9 **Confidentiality.** Engineer and each of its Consultants shall keep all Documents and City work products or data it receives in strict confidence. Engineer shall not divulge such records or the information contained therein except as approved in writing by the Director or as otherwise required by law.
- 2.10 **Licenses and Permits.** Engineer shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Engineer shall immediately notify the Director of any suspension, revocation, or other detrimental action against his or her license.
- 2.11 **Compliance with Laws:** Engineer shall comply with all applicable state and federal laws and regulations and all provisions of the City of Houston Charter and Code of Ordinances.
- 2.12 **Equal Employment Opportunity.** Engineer shall comply with the City's Equal Employment Opportunity Ordinance as set out in Section 15-17 of the Code of Ordinances.
- 2.13 **Minority and Women Business Enterprises Participation**
- 2.13.1 It is the City's policy to ensure that Minority and Women Business Enterprises ("MWBEs") have the full opportunity to compete for and participate in City contracts. The objectives of Chapter 15, Article V of the City of Houston Code of Ordinances, relating to City-wide Percentage Goals for contracting with MWBEs, are incorporated into this Contract.
- 2.13.2 Engineer shall make good faith efforts to award subcontracts or supply agreements in at least **11%** of the value of this Contract to MWBEs. The City's policy does not require Engineer to in fact meet or exceed this goal, but it does require Engineer to objectively demonstrate that it has made good faith efforts to do so. To this end, Engineer shall maintain records showing:
- 2.13.2.1 Subcontracts and supply agreements with Minority Business Enterprises;
- 2.13.2.2 Subcontracts and supply agreements with Women's Business Enterprises; and
- 2.13.2.3 Specific efforts to identify and award subcontracts and supply agreements to MWBEs.
- 2.13.3 Engineer shall submit periodic reports of its efforts under this Section to the Director of Office of Business Opportunity in the form and at the times he or she prescribes.
- 2.13.4 Engineer shall require written subcontracts with all MWBE subcontractors and suppliers and shall submit all disputes with MWBE subcontractors to binding mediation in Houston, Texas if directed to do so by the Director of Office of Business Opportunity. If Engineer 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, then the subcontract must also be signed by the attorneys of the respective parties.
- 2.14 **Drug Abuse Detection and Deterrence**
- 2.14.1 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. Engineer shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Engineers, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Contract and is on file in the City Secretary's Office.
- 2.14.2 Before the City signs this Contract, Engineer shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- .1 a copy of its drug-free workplace policy,
- .2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "F", and
- .3 A written designation of all safety impact positions or, if applicable, a Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "H".
- 2.14.3 If Engineer files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six months during the performance of this Contract or on completion of this Contract if performance is less than six months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "F". Engineer shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each six-month period of performance and within 30 days of completion of this Contract. The first six-month period begins to run on the date the City

issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Engineer begins work under this Contract.

- 2.14.4 Engineer also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Engineer's employee work force.
- 2.14.5 Engineer shall require that its subcontractors comply with the Executive Order, and Engineer shall secure and maintain the required documents for City inspection.

2.15 **Title VI Assurances.** The requirements and terms of the United States Department of Transportation Title VI program, as revised from time to time, are incorporated into this Contract for all purposes. Engineer has reviewed Exhibit "J", and shall comply with its terms and conditions.

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

ARTICLE 3 **DUTIES OF THE CITY**

3.1 Compensation

3.1.1 The City shall not authorize any work under this Contract without issuing a Notice to Proceed.

3.1.2 Services:

3.1.2.1 Subject to the terms and conditions of this Contract, including Exhibit "C", the City shall pay Engineer a fee for complete performance of tasks described in a Notice to Proceed that shall not exceed the total of the following items.

3.1.2.1.1 Salary charges calculated using a rate equal to or less than the applicable Salary Rate times hours actually worked, plus

3.1.2.1.2 Subcontract Cost plus Subcontractor Markup for services that Engineer subcontracts.

3.2 **Method of Payment.** The City shall pay on the basis of monthly invoices submitted by Engineer and approved by the Director, showing the services performed and the fee. Invoices from Engineer shall show the hours worked in the preceding month and the corresponding hourly rates for Services. The City shall pay Engineer within 30 days of the receipt and approval of the invoices. The City shall make payments to the Engineer at the address for notices.

3.3 **Limit of Appropriation.** Engineer recognizes that under certain provisions of the Charter of the City of Houston, the City may not obligate itself by contract to an extent in excess of an amount appropriated by the City Council and further recognizes that only **\$169,490.00** has been appropriated and budgeted by City Council to pay the cost of services hereunder.

3.3.1 In the event the total appropriation is insufficient to compensate Engineer, Engineer may suspend its services at such time as the total appropriation is expended, but shall resume such services, if and when authorized by the Director, upon transfer of funds by the Director or appropriation of additional funds by the City Council.

3.3.2 The Director may authorize the transfer of funds between Basic Services and Additional Services when necessary to continue services by issuing a Supplemental Notice to Proceed, provided that the transfer of funds does not exceed 25% of the Negotiated Lump Sum in the original Notice to Proceed and total funds authorized do not exceed the total amount appropriated by City Council.

3.4 Access to Data

3.4.1 In addition to its other duties under this Contract, the City shall, to the extent permitted by law, perform the following services:

3.4.1.1 When requested to do so in writing by the Engineer, provide access to information such as existing drawings, maps, field notes, statistics, computations, and other data in the possession

of the City which in the Director's opinion will assist the Engineer in the performance of its services hereunder.

ARTICLE 4 **TERM AND TERMINATION**

4.1 Contract Term

4.1.1 This Contract is effective on the Countersignature Date and expires one year from the Countersignature Date ("Initial Term"). This Contract is not renewable.

4.2 Termination by the City for Convenience

4.2.1 The Director may terminate Engineer's performance under this Contract at any time by giving seven days written notice to Engineer. As soon as possible, but not later than the effective date of such notice, Engineer shall, unless the notice directs otherwise, immediately discontinue all services in connection with this Contract and shall proceed to promptly cancel all existing orders and Consultant subcontracts insofar as such orders or subcontracts are chargeable to this Contract. Within seven days after the effective date of notice of termination, Engineer shall deliver copies of all Documents to the Director and submit an invoice showing in detail services performed under this Contract to the date of termination. The City shall then pay the prescribed fees to Engineer for services actually performed under this Contract up to the date of termination less such payment on account of charges previously made, in the same manner as prescribed in Article 3 of this Contract. Any installments or lump sum fees shall be prorated in accordance with the progress of the Work at the effective date of termination. Engineer may, if necessary, submit invoices for vendor and Consultant charges reasonably necessary for the Project which are incurred prior to the effective date of termination and received by Engineer after its initial termination invoice.

4.2.2 Engineer understands and acknowledges that if the City determines not to proceed with this Contract, according to the terms of this article, the Director shall provide Engineer with a written notice of his intent to terminate this Contract and this Contract shall terminate upon Engineer's receipt of such written notice.

4.3 **Termination by the City for Cause.** City may terminate this Contract in the event of a material default by Engineer and a failure by Engineer to cure such default after receiving notice thereof, as provided in this Section. Default by Engineer shall occur if Engineer fails to observe or perform any of its duties under this Contract, if Engineer dies (if an individual) or for some other reason is unable to render services hereunder. Should such a default occur, the Director will deliver a written notice to Engineer describing such default and the proposed date of termination. Such date may not be sooner than the seventh day following receipt of the notice. The Director, at his or her sole option, may extend the proposed date of termination to a later date. If Engineer cures such default to the Director's reasonable satisfaction prior to the proposed date of termination, then the proposed termination shall be ineffective. If Engineer fails to cure such default prior to the proposed date of termination, then City may terminate its performance under this Contract as of such date, and Engineer shall deliver all Documents to the Director within seven days of the effective date of the termination. If the City's cost of obtaining completion of the work by other engineers, in combination with other direct costs sustained by the City as a result of the default, exceeds the remaining contract amounts unpaid to Engineer, the City shall not be obligated to make any further payment to Engineer. This provision does not relieve Engineer of any other obligation Engineer may have to the City.

4.4 **Termination by Engineer for Cause.** Engineer may terminate its performance only upon default of the City. Should such default occur, Engineer shall have the right to terminate all or part of its duties under this Contract as of the 14th day following the receipt by the City of a notice from Engineer describing such default and intended termination, provided: (1) such termination shall be ineffective if within the 14 day period the City cures the default; and (2) such termination may be stayed beyond such 14 day period, at the sole option of Engineer, pending cure of the default.

ARTICLE 5
MISCELLANEOUS PROVISIONS

- 5.1 **Independent Contractor.** The relationship of Engineer to the City shall be that of an independent contractor.
- 5.2 **Business Structure and Assignments.** Engineer shall not assign this Contract 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 Chapter 9 of the Texas Business & Commerce Code. In the case of such an assignment, Engineer 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. Engineer shall not delegate any portion of its performance under this Contract without the Director's prior written consent.
- 5.3 **Parties in Interest.** This Contract shall not bestow any rights upon any third party, but rather, shall bind and benefit the City and Engineer only.
- 5.4 **Non-waiver.** Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.
- 5.5 **Applicable Laws.** This Contract is subject to and shall be construed in accordance with the laws of the State of Texas, the City Charter and Ordinances of the City of Houston, and to the extent required by any agreement between the City and any Federal agency, the laws of the federal government of the United States of America and all rules and regulations of any regulatory body or officer having jurisdiction over this Project. This Contract is performable in Harris County, Texas.
- 5.6 **Notices.** All notices required or permitted hereunder shall be in writing and shall be deemed received when actually received or if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the other party at the address prescribed in the preamble hereof or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.
- 5.7 **Captions.** The captions at the beginning of the articles and sections of this Contract are guides and labels to assist in locating and reading such articles and sections and, therefore, will be given no effect in construing this Contract and shall not be restrictive of or be used to interpret the subject matter of any article, section, or part of this Contract.
- 5.8 **Acceptances and Approvals.** Any acceptance or approval by the City, or its agents or employees shall not constitute nor be deemed to be a release of the responsibility and liability of Engineer, its employees, agents, Consultants, or suppliers for the accuracy, competency, and completeness for any Documents prepared or services performed pursuant to the terms and conditions of this Contract, nor shall acceptance or approval be deemed to be an assumption of such responsibility or liability by the City, or its agents and employees, for any defect, error or omission in any Documents prepared or services performed by Engineer, its employees, agents, Consultants or suppliers pursuant to this Contract.
- 5.9 **Inspections and Audits.** Representatives of the City shall have the right to examine and review all books, records, and billing documents which are directly related to performance or payment under this Contract. Engineer shall maintain such books, records, and billings for three years after the cessation of its other duties under this Contract. This right of audit extends to the records of Engineer's Consultants, and Engineer's agreements with its Consultants shall provide this right to the City.

- 5.10 **Ambiguities.** In the event of any ambiguity in any of the terms of this Contract, it shall not be construed for or against any Party because of such Party's involvement in the preparation or drafting of this Contract.
- 5.11 **Entire Agreement.** This Contract merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the Parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms with respect to the subject matter hereof, whether written or verbal.
- 5.12 **Survival.** Engineer shall remain obligated to the City under all clauses of this Contract that expressly or by their nature extend beyond the expiration or termination of the term of this Contract, including but not limited to the Ownership of Documents provisions of Article 2 of this Contract.
- 5.13 **ENGINEER'S DEBT. IF ENGINEER, AT ANY TIME DURING THE TERM OF THIS CONTRACT, 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 ENGINEER HAS INCURRED A DEBT, THE CONTROLLER SHALL IMMEDIATELY NOTIFY ENGINEER IN WRITING. IF ENGINEER DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO ENGINEER UNDER THIS CONTRACT, AND ENGINEER WAIVES ANY RECOURSE THEREFOR. ENGINEER 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 CONTRACT.**

The Parties have executed this Contract in multiple copies, each of which shall be an original, as of this date countersigned by the City Controller of the City of Houston.

ENGINEER:

BLACK & VEATCH CORPORATION

By: John M. Chevette

Name: John M. Chevette

Title: President, Management Consulting

Reviewed by Legal(Demel) November 16, 2015. *KED*
Reviewed by PM(Chastain-Howley) November 16, 2015. *JCH*

CITY:

THE CITY OF HOUSTON

By: Amanda Washington

By: Amanda Washington

Mayor

ATTEST:

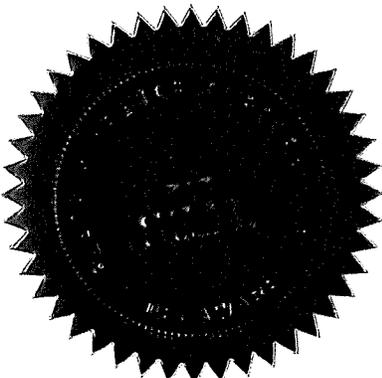
By: Justine C. Dupont
Corporate Secretary or Notary Public

Federal Tax Identification No. 43-1833073

ATTEST:

By: Christina
City Secretary

ATTEST & SEAL (if a corporation):
NOTARIZE & SEAL (if not a corporation):



APPROVED:

[Signature]
Chief Procurement Officer
Strategic Procurement Division

APPROVED:

[Signature]
Director
Public Works and Engineering Department

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
L.D. File No. 0341600008001

COUNTERSIGNED:

[Signature]
City Controller *Jenise Ford*

DATE COUNTERSIGNED: 2-22-16

EXHIBIT "A"

SCOPE OF SERVICES

1.0 Project Overview

1.1 The Engineer shall perform a gap analysis of policies, workflow and procedures in the City of Houston (The City), for Department of Public Works and Engineering's (PWE) completion of the annual water audit. The gap analysis shall comprehensively address points of the "Top Down" and specifically targeted points of the "Bottom Up" approaches delineated in the American Water Works Association's (AWWA) Water Audits and Loss Control Programs Manual (M36, copyright 2009). The Water Loss Audit shall reflect statements of benefit associated with projects that enhance PWE's ability to continuously improve its water loss performance while making sustainable the ongoing mitigation of water loss and revenue enhancement efforts.

1.2 BACKGROUND

1.2.1 Through the Combined Utility System (CUS), the City provides untreated water, potable water and/or wastewater services to households, businesses, utilities and utility districts within the City limits. Beyond the City Limits, the City provides contracted potable water to utility districts, other municipalities and regional water authorities. The City is currently capable of supplying 1,172 million gallons per day (MGD) of drinking water to its citizens. Our water production system includes three surface water treatment plants and groundwater wells with a production capacity of more than 865 million gallons per day of drinking water. Our customers used an average of 651 million gallons of water (potable and non-potable) each day for fiscal year 2013.

1.2.2 The City also provides untreated surface water to industrial users and wastewater services through 40 wastewater treatment plants. The total permitted capacity is 563 million gallons per day. On an average day, the CUS treats 285 million gallons, which currently means there is capacity available for flow increases from storm water and for new customers.

1.2.3 In regards to water loss mitigation efforts and techniques, the City's PWE has advanced significantly with its internal approaches and solution provision. The belief is that a comprehensive gap analysis that also addresses specific opportunities and actionable items will make sustainable the ability of internal staff to identify, report, and continuously improve upon the PWE's ability to mitigate water loss. It is expected that the effort associated with this project will lead to a published "four-pillar approach" (pgs. 84 & 111 of the M36 manual) for apparent loss specific to PWE and initial evaluation of real loss to compliment this information.

2.0 Scope of Work

2.1 Coordination and Program Management

2.1.1 Black & Veatch will provide a Project Manager (BVPM) who will act as the main point of contact for all discussions with the City Project Manager regarding this project. Contractor and City Project Manager (CPM) shall compile a data request list for each of the relevant data items and determine key personnel and meeting times coordinated through CPM.

2.2 Top Down Water Audit:

2.2.1 The first requirement is to aid the City with the completing a top down review of the City's historical water loss utilizing the AWWA standard methodology. The initial step of the Top Down Water Audit is to identify a group of stakeholders within the utility to aid in gathering the required data for a first look at the utility performance. A data request will be prepared and provided to the City within a week of the notice to proceed. Data is gathered and entered initially into a simple water balance model which provides the level of detail for which data is currently available at this desktop analysis (top-down) level. This will include:

2.2.1.1 Measurement and accuracy thereof, of water supplied to the distribution system;

2.2.1.2 Calculation of the quantity of billed authorized consumption;

2.2.1.3 Calculation of unbilled authorized consumption;

2.2.1.4 Analysis of system data and cost data inputs for the water audit;

2.2.1.5 Calculation of non-revenue water;

2.2.1.6 Calculation of real water losses; and

2.2.1.7 Calculation of apparent water losses.

- 2.3 Top-Down Data Validation
 - 2.3.1 The Engineer shall conduct data validation review including interviews and analysis of staff and available data using the AWWA M36 best practice methodologies. "Top Down" components for a gap analysis shall be included, and shall include components that compare current PWE policies, work flows, and procedures to the AWWA/industry best practices including the list below that restates in part, the M36 manual's methodology.
- 2.4 Targeted "Bottom Up" components that compare and analyze PWE's current state to best practices include:
 - 2.4.1 Geospatial Billing Data Analysis. The Engineer shall conduct a pilot apparent loss data validation and assessment using PWE's policies, work flows, and procedures related to management of utility type user/land use of property within the City of Houston jurisdictional area to ensure the City is appropriately billing utility consumption.
 - 2.4.2 Meter Accuracy – Large Meter:
 - 2.4.2.1 The Engineer shall review the current large meter accuracy calculation methodologies. The Engineer shall develop a repair and calibration schedule for large meters based on data analysis of existing flow, total consumption, aging, meter type, meter size and the chemical characteristics of the City's water; and
 - 2.4.2.2 The Engineer shall recommend the method for calculating total meter system accuracy to include customer consumption profile methodology and small meter sampling techniques.
 - 2.4.3 Consumption Data Capture.
 - 2.4.3.1 The Engineer shall review policies, work flow and procedures for capturing measured and billed consumption. The Engineer shall compare the current state to best practices recommended by AWWA and provide recommendations.
 - 2.4.3.2 The methods used in completing the scope of work will include but not be limited to conducting interviews of subject matter experts (SMEs), data acquisition and analysis, review of established and projected policies, work flows, and procedures, and research associated with industry best practices.
- 2.5 Deliverables.
 - 2.5.1 Policy change recommendations, implementable workflows, and procedural change recommendations that make sustainable PWE's continuous improvement of water loss reporting and mitigation following the "four-pillar approach" recommended by the M36 manual.
 - 2.5.2 Water Audit completed in the AWWA Free Water Audit Software, including the data validation details.
 - 2.5.3 Large meter repair and calibration program.
 - 2.5.4 Overall metering system accuracy report from current data.
 - 2.5.5 Report on billing review from pilot project.
- 2.6 Supplementary Services. A supplementary task (Task 700) to provide additional coordination between Departments and includes a workshop at the end of the project to discuss future directions and possible implementation programs and coordination of those programs.

EXHIBIT "B"

PROJECT SCHEDULE

Table 1

ITEM NO. ¹	DESCRIPTION	PROPOSED COMPLETION ²
100	Project Management	12 Months
200	System Evaluation and Data Validation	4 Months
300	Data Analysis	6 Months
400	Apparent Loss Analysis and Implementation	8 Months
500	Real Loss Analysis and Implementation	7 Months
600	Water Loss Program Management Report	10 Months
700	Supplemental Services	20 Working days after completion of Task 600
¹ All Tasks will run concurrently until completion		
² From Notice to Proceed, unless otherwise specified. See Table 2 for specific expected completion dates.		

Table 2

Notice to Proceed Date	Expected completion date
If provided prior to November 1 st , 2015	June 30 th , 2016
If provided after November 1 st , 2015	One year after Countersignature Date

EXHIBIT "C"

FEE SCHEDULE

ITEM NO.	DESCRIPTION	Total Price
100	Project Management	\$17,530.00
200	System Evaluation and Data Validation	\$30,754.00
300	Data Analysis	\$35,772.00
400	Apparent Loss Analysis and Implementation	\$19,448.00
500	Real Loss Analysis and Implementation	\$19,574.00
600	Water Loss Program Management Report	\$22,864.00
700	Supplemental Services	\$23,548.00
	<u>TOTAL</u>	<u>\$169,490.00</u>

EXHIBIT "D"

CERTIFICATE OF INSURANCE

Please visit <http://purchasing.houstontx.gov/guide.shtml>, and find "Insurance & Indemnification" for the most current insurance certificates and requirements.

EXHIBIT "E"

DRUG POLICY COMPLIANCE AGREEMENT

I, Lynn E. Bertuglia Associate Vice President as an owner or officer of
(Name) (Print/Type) (Title)
Black & Veatch Corporation (Engineer)
(Name of Company)

have authority to bind Engineer 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 Engineer 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 Engineer 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 Engineers (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 Engineer 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.

12/02/2015

Date

Lynn E. Bertuglia

~~XXXXXX~~ Name

Signature

Associate Vice President

Title

EXHIBIT "F"

DRUG POLICY COMPLIANCE DECLARATION

Lynn E. Bertuglia Associate Vice President as an owner or officer of
(Name) (Print/Type) (Title)
Black & Veatch Corporation (Engineer)
(Name of Company)

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

This reporting period covers the preceding six months from June 1 to December 1, 20 15.

LEB
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).

LEB
Initials

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

LEB
Initials

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

LEB
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 0.

LEB
Initials

From June 1, 2015 to December 1, 2015 the following test has occurred
(Start date) (End date)

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

LEB
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.

LEB
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.

December 2, 2015
(Date)

Lynn E. Bertuglia
(Typed or Printed Name)
[Signature]
(Signature)
Associate Vice President
(Title)

EXHIBIT "G"

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

I, Lynn E. Bertuglia, Associate Vice President,
(Name) (Title)

as an owner or officer of Black & Veatch Corporation (Engineer)
(Name of Company)

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

in performing _____
(Project)

Engineer 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.

December 2, 2015
(Date)

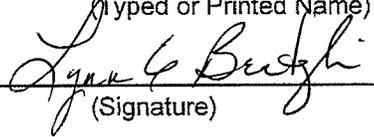
Lynn E. Bertuglia
(Typed or Printed Name)

(Signature)
Associate Vice President
(Title)

EXHIBIT "H"

SUBCONTRACTOR'S ASSIGNMENT OF COPYRIGHT

1. Engineer has entered into a Contract with the CITY OF HOUSTON, TEXAS ("City") to provide professional engineering services as well as related support and consulting services ("Services").
2. Subcontractor is or will be providing services for Engineer related to its Contract with the City.
3. In the course of Subcontractor's work for Engineer related to the provision of Services to the City, Contract Documents and other work products will be produced by Subcontractor for the benefit of the City for which Subcontractor will be compensated by Engineer.
4. Contract Documents include but are not limited to reports, charts, analyses, maps, letters, tabulations, computer programs, exhibits, notes, models, photographs, the original transparencies of all drawings, all graphic and written information prepared or assembled by Subcontractor and all other work products obtained or prepared by Subcontractor as part of its services for Engineer.
5. For and in consideration of the foregoing, the Subcontractor shall grant and assign and hereby does grant and assign to the City all right, title, interest and full ownership worldwide in and to any work, invention and all Contract Documents, or any modifications or improvements to them, and the copyrights, patents, trademarks, trade secrets and any other possessory or proprietary rights therein, that are discovered, conceived, developed, written or produced by the Subcontractor, its agents and employees pursuant to its contract with Engineer (collectively "Works"), to have and to hold the same unto the City absolutely.
6. The Subcontractor agrees that neither it nor any of its agents and employees shall have any right to assert or establish a claim or exercise any of the rights embodied in any copyrights, patents, trademarks, trade secrets and any other possessory or proprietary rights related to the Works. If requested by the Engineer, the Subcontractor shall place a conspicuous notation upon any such Works which indicates that the copyright, patent, trademark or trade secret thereto is owned by the City of Houston.
7. The Subcontractor shall execute all documents required by the Engineer and the Director of the Department of Public Works and Engineering of the City ("Director") to further evidence such assignment and ownership. The Subcontractor shall cooperate with the Engineer and the City in registering, creating or enforcing any copyrights, patents, trademarks, trade secrets or other possessory or proprietary rights arising hereunder. If any assistance by the Subcontractor is requested and rendered pursuant to this Section, the City shall reimburse the Subcontractor for all out-of-pocket expenses incurred by the Subcontractor in rendering such assistance, subject to the availability of funds. On termination of the Subcontractor's contract with Engineer or upon request by the Director, the Subcontractor shall deliver all Works to the City. The Subcontractor agrees that its agents and employees performing work hereunder are bound by the terms of this Exhibit.

IN WITNESS WHEREOF, Subcontractor has executed this Assignment as of this _____ 2 day of _____

December, 20 15

Subcontractor



By: Giti Zaninkell

Title: President

EXHIBIT "H"

SUBCONTRACTOR'S ASSIGNMENT OF COPYRIGHT

1. Engineer has entered into a Contract with the CITY OF HOUSTON, TEXAS ("City") to provide professional engineering services as well as related support and consulting services ("Services").
2. Subcontractor is or will be providing services for Engineer related to its Contract with the City.
3. In the course of Subcontractor's work for Engineer related to the provision of Services to the City, Contract Documents and other work products will be produced by Subcontractor for the benefit of the City for which Subcontractor will be compensated by Engineer.
4. Contract Documents include but are not limited to reports, charts, analyses, maps, letters, tabulations, computer programs, exhibits, notes, models, photographs, the original transparencies of all drawings, all graphic and written information prepared or assembled by Subcontractor and all other work products obtained or prepared by Subcontractor as part of its services for Engineer.
5. For and in consideration of the foregoing, the Subcontractor shall grant and assign and hereby does grant and assign to the City all right, title, interest and full ownership worldwide in and to any work, invention and all Contract Documents, or any modifications or improvements to them, and the copyrights, patents, trademarks, trade secrets and any other possessory or proprietary rights therein, that are discovered, conceived, developed, written or produced by the Subcontractor, its agents and employees pursuant to its contract with Engineer (collectively "Works"), to have and to hold the same unto the City absolutely.
6. The Subcontractor agrees that neither it nor any of its agents and employees shall have any right to assert or establish a claim or exercise any of the rights embodied in any copyrights, patents, trademarks, trade secrets and any other possessory or proprietary rights related to the Works. If requested by the Engineer, the Subcontractor shall place a conspicuous notation upon any such Works which indicates that the copyright, patent, trademark or trade secret thereto is owned by the City of Houston.
7. The Subcontractor shall execute all documents required by the Engineer and the Director of the Department of Public Works and Engineering of the City ("Director") to further evidence such assignment and ownership. The Subcontractor shall cooperate with the Engineer and the City in registering, creating or enforcing any copyrights, patents, trademarks, trade secrets or other possessory or proprietary rights arising hereunder. If any assistance by the Subcontractor is requested and rendered pursuant to this Section, the City shall reimburse the Subcontractor for all out-of-pocket expenses incurred by the Subcontractor in rendering such assistance, subject to the availability of funds. On termination of the Subcontractor's contract with Engineer or upon request by the Director, the Subcontractor shall deliver all Works to the City. The Subcontractor agrees that its agents and employees performing work hereunder are bound by the terms of this Exhibit.

IN WITNESS WHEREOF, Subcontractor has executed this Assignment as of this 2ND day of DECEMBER, 2015.

Subcontractor



By: M. STEVE CAVANAUGH, JR.

Title: PRESIDENT / CEO
CAVANAUGH & ASSOCIATES, P.A.

M/WBE LETTER OF INTENT

CONTRACT: S10-T25370

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT.

TO: **City of Houston**
City Purchasing Agent

MINORITY/WOMEN BUSINESS ENTERPRISE (M/WBE) AND SUPPLIER

LETTER OF INTENT

Contract Bid Number: **S10-T25370**

Bid Title: Water Loss Audit-Revenue Enhancement

Bid Amount: **\$169,490.00**

M/WBE Participation Amount: **\$18,643.90**; M/WBE GOAL: **11%**

- Zarinkelk Engineering Services agrees to perform work/supply goods and/or **Name of Minority/Women Business Enterprise** services in connection with the above-named contract and _____ as: **Name of Prime Contractor**
 - _____ An Individual
 - _____ A Partnership
 - X _____ A Corporation
 - _____ A Joint Venture
- Zarinkelk Engineering Services status is confirmed by M/WBE Directory made **Name of Minority/Women Business Enterprise** available through the City of Houston Affirmative Action Division. Certificate No.: 15-02-8967
- _____ and Zarinkelk Engineering Services, Inc. **Name of Prime Contractor** **Minority/Women Business Enterprise** intend to work on the above-named contract in accordance with the M/WBE Participation Section of the City of Houston Contract Bid Provision.

The terms and conditions of Attachment "C" attached hereto are incorporated into this Letter of Intent for all purposes.

Lynn E. Bush
Signed-Prime Contractor
Associate Vice President
Title
2 Dec 15
Date

Bob Zarinkelk
Signed-Minority/Women Business Enterprise
President
Title
11/25/20256
Date

EXHIBIT "1"

**FORM POP 2
CERTIFICATION OF AGREEMENT TO COMPLY WITH
PAY OR PLAY PROGRAM**

Available at <http://www.houstontx.gov/obo/popforms.html>



**City of Houston
Certification of Compliance with
Pay or Play Program**



Contractor Name: Black & Veatch Corporation \$ 169,490.00
(Contractor/Subcontractor) (Amount of Contract)

Contractor Address: 8400 Ward Parkway, Kansas City, MO 64114

Project No.: [GFS/CIP/AIP/File No.] S10-T25370

Project Name: [Legal Project Name] Water Loss Audit-Revenue Enhancement Structure

POP Liaison Name: Lynn E. Bertuglia

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534 and Executive Order 1-7, Contractor/Subcontractor agrees to abide by the terms of this Program. This certification is required of all contractors for contracts subject to the program. You must agree EITHER to PAY or to PLAY for all covered employees. The Contractor/Subcontractor may also Pay on behalf of some covered employees and Play on behalf of other covered employees.

The Contractor/Subcontractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program requirements of the Pay or Play Program (See Executive Order 1-7 for the terms of the Pay or Play program) The criteria of the program is as follows:

The Contractor/Subcontractor agrees to "Pay" \$1.00 per hour for work performed by covered employees under the contract with the City. If independent contract labor is utilized the Contractor/Subcontractor agrees to report hours worked by the independent contract laborer and pay \$1.00 per hour for work performed.

Otherwise the Contractor/Subcontractor agrees to "Play" by providing health benefits to each covered employee. The health benefits must meet the following criteria:

1. The employer will contribute no less than \$150 per employee per month toward the total premium cost for single coverage only; and
2. The employee contribution, if any amount, will be no greater than 50% of the total premium cost and no more than \$150 per month.
3. Pursuant to E.O. 1-7 section 4.04 a contractor is deemed to have complied with respect to a covered employee who is not provided health benefits if the employee refuses the benefits and the employee's contribution to the premium is no more than \$40 per month.

Please select whether you choose to:	Pay	Play	Both
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Contractor/Subcontractor will file compliance reports with the City, which will include activity for covered employees subject to the program, in the form and to the extent requested by the administering department. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records.

Note: The Contractor is responsible to the City for the compliance of covered employees of covered subcontractors and only forms that are accurate and complete will be accepted.

*Estimated Number of:	Prime Contractor	Sub-Contractor
Total Employees on City Job	9	3
Covered Employees	9	3
Non-Covered Employees		
Exempt Employees		

***Required**

I hereby certify that the above information is true and correct.

Lynn E. Bertuglia December 7, 2015
 Contractor (Signature) Date
Lynn E. Bertuglia Associate Vice President
 Name and Title (Print or type)



**City of Houston
Pay or Play Program
Acknowledgement Form**



It has been determined that the project currently open for bidding meets the criteria of the City of Houston Pay or Play program. This form acknowledges your awareness of the Pay or Play program which is authorized by Ordinance 2007-534. Your signature below affirms that you will comply with the requirements of the program if you are the successful bidder/proposer, and ensure the same on behalf of subcontracts subject to the Pay or Play Program.

I declare under penalty of perjury under the laws of the State of Texas that if awarded this contract which meets the criteria for the City of Houston's Pay or Play Program, I will comply with all requirements of the Pay or Play Program in accordance with Executive Order 1-7.

***Fill out all information below and submit this form with your bid/proposal packet.**

S10-T25370

Solicitation Number

Lynn E. Bertuglia

Signature

7 December 2015

Date

Lynn E. Bertuglia

Print Name

106670

City Vendor ID

Black & Veatch Corporation

Company Name

913-458-8868

Phone Number

BertugliaLE@bv.com

Email Address

Note: For more information contact your POP Liaison or the POP Contract Administrator. All contact information can be found on www.houstontx.gov →Departments→Office of Business Opportunity→Pay or Play.



City of Houston
Pay or Play Program
Acknowledgement Form



It has been determined that the project currently open for bidding meets the criteria of the City of Houston Pay or Play program. This form acknowledges your awareness of the Pay or Play program which is authorized by Ordinance 2007-534. Your signature below affirms that you will comply with the requirements of the program if you are the successful bidder/proposer, and ensure the same on behalf of subcontracts subject to the Pay or Play Program.

I declare under penalty of perjury under the laws of the State of Texas that if awarded this contract which meets the criteria for the City of Houston's Pay or Play Program, I will comply with all requirements of the Pay or Play Program in accordance with Executive Order 1-7.

***Fill out all information below and submit this form with your bid/proposal packet.**

S10-T25370

Solicitation Number

Steve Cavanaugh

Signature

7 December 2015

Date

Steve Cavanaugh

Print Name

148538

City Vendor ID

Cavanaugh & Associates

Company Name

877-557-8923

Phone Number

steve.cavanaugh@cavanaugholutions.com

Email Address

Note: For more information contact your POP Liaison or the POP Contract Administrator. All contact information can be found on www.houstontx.gov →Departments→Office of Business Opportunity→Pay or Play.



City of Houston
Pay or Play Program
Acknowledgement Form

What this form does. This form acknowledges your awareness of the Pay or Play program. Your signature affirms that you will comply with the requirements of the program if you are the successful bidder/proposer, and ensure the same on behalf of subcontracts subject to the Pay or Play Program.

For more information, contact the Contract Administrator.

Routing. Return this form with your bid or proposal.

I declare under penalty of perjury under the laws of the State of Texas that if awarded a contract, I will comply with the requirements of the Pay or Play Program.


Signature

9 April 2015
Date

Giti Zarinkelk, P.E., F.S.A.M.E., President
Print Name

101220
City Vendor ID

Zarinkelk Engineering Services, Inc.
Company Name

832-242-2426
Phone Number

giti.zarinkelk@zarinkelk.com
Email Address

EXHIBIT "J"

CERTIFICATION OF AGREEMENT TO COMPLY WITH
STANDARD DOT TITLE VI ASSURANCES
APPENDIX A LANGUAGE

During the performance of this Contract, the Engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (1) Compliance with Regulations: The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Recipient, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the Contractor under the Contract until the Contractor complies; and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Recipient or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Recipient to enter into such litigation to protect the interests of the Recipient, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.