

ADDENDUM TO PURCHASE ORDER – FEDERALLY FUNDED

THIS ADDENDUM TO PURCHASE ORDER NUMBER _____ is entered into on the date signed by the Vendor (“Effective Date”) between the CITY OF HOUSTON, TEXAS (“City”), a home-rule city of the State of Texas, and _____ (“Vendor” or “Contractor”) located at _____ and doing business in Texas.

1. This Addendum and Purchase Order _____ are issued in connection with City’s purchase of _____ from Vendor.
2. For the purposes of this Addendum, “Purchase Order” means the purchase order issued by the City in connection with the Purchase Order Number referenced above.
3. The terms and conditions specified on <http://purchasing.houstontx.gov>, attached hereto as **Exhibit A**, will apply to this Addendum and Purchase Order. This Addendum and Purchase Order shall control over and override all terms and conditions specified on <http://purchasing.houstontx.gov> as well as those of any written specifications, statement of work, work write-up, or other project plan, that are inconsistent with this Addendum and Purchase Order, and this Addendum and Purchase Order is hereby substituted for any such conflicting or inconsistent term or condition. No additional term or condition added in any statement of work, other document relating to the subject matter hereof, or any amendment thereto can conflict with or diminish any term or condition of this Addendum and Purchase Order, and any such term or condition is and shall be void and unenforceable.
4. Vendor shall provide _____ to satisfy the needs of the City described in the Purchase Order and/or any authorized amendment thereto. The Purchase Order must be approved and signed by the Chief Procurement Officer or the Director of the _____ or his or her designee (the “Director”). Goods and/or services shall be provided as more fully described in the Purchase Order, at the prices and rates set forth in the Purchase Order. Vendor shall provide _____ in accordance with the terms outlined in this Addendum and Purchase Order. The Director reserves the right to alter the scope of work, quantity or quality of goods ordered, or other elements of this Addendum and Purchase Order through the issuance of a Change Order to Vendor, as applicable. Any changes to the scope of work, price, or schedule shall be made in writing and signed by an authorized representative of each party.
5. The term of this Addendum and Purchase Order is _____ from the Effective Date. This Addendum and Purchase Order shall expire on the earlier of: (i) the expiration date as mentioned above; (ii) when all funds allocated to the Purchase Order are exhausted, or (iii) when terminated by the Director or Chief Procurement Officer in accordance with the termination provisions below.
6. The City makes no express or implied representations, warranties, or guarantees whatsoever, that any particular quantity, type, task area, or dollar amount of services will be procured or purchased from Vendor through this Addendum and Purchase Order or Change Order; nor does the City make any express or implied representations, warranties, or guarantees, whatsoever for the amount or value of revenue that Vendor may ultimately derive from or through this Addendum and Purchase Order or Change Order.

7. The total fees paid by the City to Vendor for goods and/or services under this Addendum and Purchase Order and subsequent Purchase Orders shall be \$_____. Vendor recognizes that, under Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City may not obligate itself by contract to pay more money than the amount the City Council appropriates; and Vendor further recognizes that the City Council has appropriated and allocated only \$_____ to pay for goods and/or services under this Addendum and Purchase Order and subsequent Purchase Orders. The City's obligation to Vendor under this Addendum and Purchase Order and subsequent Purchase Orders shall not exceed \$_____, unless both of the following events occur: (a) the City Council makes further appropriations for this Addendum, and (b) the City issues a duly authorized amendment to this Addendum prior to its termination.

8. The indemnification provision set forth in the terms and conditions attached as **Exhibit A** shall apply to goods only; however, whether providing goods or services, Vendor shall release the City as follows:

RELEASE

THE VENDOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS AND LEGAL REPRESENTATIVES (COLLECTIVELY IN THIS SECTION 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 ADDENDUM AND PURCHASE ORDER, 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. VENDOR HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS ADDENDUM AND PURCHASE ORDER.

VENDOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS), IF ANY, TO RELEASE THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE TO THE CITY.

9. Vendor acknowledges that federal funds, such as Federal Emergency Management Agency (FEMA) or U.S. Department of Housing and Urban Development (HUD) financial assistance will be used to fund all or a portion of this Addendum and Purchase Order. Vendor shall comply with all applicable federal law, regulations, executive orders, federal policies (i.e. FEMA, HUD, Community Development Block Grant (CDBG), CDBG-DR) policies, procedures and directives.

10. Vendor acknowledges that the Federal Government is not a party to this Addendum and Purchase Order and is not subject to any obligations or liabilities to the City, Vendor, or any other party pertaining to any matter resulting from this Addendum and Purchase Order.

11. Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Vendor's actions pertaining to this Addendum and Purchase Order.

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

13. Access to Records. The following access to records requirements apply to this Purchase Order and Addendum:

A. Vendor agrees to provide the City, the FEMA or HUD Administrator (as applicable), the Texas Department of Emergency Management, the Comptroller General of the United States, or any of their authorized representatives (1) access to any books, documents, papers, and records of Vendor which are directly pertinent to this Addendum and Purchase Order and (2) access to inspect all places where work is undertaken in connection with this Addendum and Purchase Order for the purposes of making audits, examinations, excerpts, inspections, and transcriptions. Vendor shall keep its books, documents, papers, and records available for this purpose for at least five years after this Addendum terminates or expires. If the books and records are located outside of Harris County, Texas, Contractor agrees to make them available in Harris County, Texas. This provision does not limit the applicable statute of limitations.

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

C. If City determines through an audit or in reviewing invoices or other supporting documentation that Vendor has expended any portion of the funds for purposes inconsistent with or not permitted by the terms of this Addendum or the applicable laws and regulations (e.g. FEMA or HUD laws, rules and regulations), or has otherwise overpaid third parties, Vendor shall immediately return to the City the applicable portion of the funds within thirty (30) days of the date on which it receives written notice from the Director of the amount due and owing to the City and the reason that the funds must be returned.

D. Vendor agrees to provide the FEMA or HUD Administrator (as applicable) or his authorized representatives access to construction or other work sites pertaining to the work being completed under this Addendum and Purchase Order.

E. In compliance with the Disaster Recovery Act of 2018, the City and Vendor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA or HUD Administrator (as applicable) or the Comptroller General of the United States.

14. Environmental Compliance – Applicable only to Purchase Orders over \$150,000.

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

B. Vendor shall report all violations to the City, and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. Vendor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or HUD (as applicable).

15. Contract Work Hours and Safety Standards Act – Applicable only to Purchase Orders over \$100,000. All contracts entered into related to this Addendum and Purchase Order shall contain the following language:

A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

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

D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor

shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

16. Equal Employment Opportunity. During the performance of this contract, Vendor agrees as follows:

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

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

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

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

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

E. Vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. Vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency

and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

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

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

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

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

K. The Applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Applicant agrees that if it fails or

refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

17. Procurement of Recovered Materials.

A. In the performance of this Addendum and Purchase Order, Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- (1) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (2) Meeting contract performance requirements; or
- (3) At a reasonable price.

B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

C. The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

18. Remedies. If any work performed and/or goods delivered by Vendor fails to meet the requirements of the Addendum and Purchase Order, any other applicable standards, codes or laws, or otherwise breaches the terms of the Addendum and Purchase Order, the City may in its sole discretion:

- A. elect to have Vendor re-perform or cause to be re-performed, at Vendor's sole expense, any of the work which failed to meet the requirements of the contract;
- B. in the case of goods, reject the goods and require Vendor to provide replacement goods that meet the needs of the City and the terms of the Addendum and Purchase Order;
- C. hire another contractor to perform the work and deduct any additional costs incurred by the City as a result of substituting contractors from any amounts due to Vendor; or
- D. pursue and obtain any and all other available legal or equitable remedies.

This Section shall in no way be interpreted to limit the City's right to pursue and obtain any and all other available legal or equitable remedies against Vendor.

19. Suspension and Debarment.

A. Federal regulations restrict the City from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. Vendor can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

B. This Addendum and Purchase Order is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Vendor is required to verify that none of its principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

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

D. This certification, found in **Exhibit B**, is a material representation of fact relied upon by the State of Texas and the City. If it is later determined that Vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Texas and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

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

20. Byrd Anti-Lobbying Amendment.

A. Vendors who apply or bid for an award of \$100,000 or more shall file the required certification as set out in **Exhibit C** of this Addendum. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

21. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms. If Vendor intends to subcontract any portion of the work covered by this Addendum and Purchase Order, Vendor must take all necessary affirmative steps to assure

that small and minority businesses, women's business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

22. Preservation of Contracting Information.

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

B. If Vendor fails to comply with any one or more of the requirements of this Section, Preservation of Contracting Information, or Subchapter J, Chapter 552, Texas Government Code, then, in accordance with and pursuant to the processes and procedures set forth in Sections 552.373 and 552.374 of the Texas Government Code, the Director shall provide notice to the Vendor and may terminate this Addendum. To effect final termination, the Director must notify Vendor in writing with a copy of the notice to the City's Chief

Procurement Officer. After receiving the notice, Vendor shall, unless the notice directs otherwise, immediately discontinue all services under this Addendum, and promptly cancel all orders or subcontracts chargeable to this Addendum.

23. Davis-Bacon Act – Applicable to Contracts/Purchase Orders for construction work in excess of \$2,000.00.

A. All transactions regarding this Addendum/Purchase Order shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 CFR pt. 5 as may be applicable. Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

B. Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

C. Additionally, Contractor is required to pay wages not less than once a week.

24. Copeland “Anti-Kickback” Act – Applicable to Contracts/Purchase Orders for construction work in excess of \$2,000.0 and when the Davis-Bacon Act also applies.

A. Contractor. Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. §3145 and the requirements of 29 C.F.R. part 3 as may be applicable, which are incorporated by reference to this Addendum/Purchase Order.

B. Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or HUD (as applicable) may, by appropriate instructions, require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

C. Breach. A breach of the contract clauses above may be grounds for termination of this Addendum/Purchase Order, and for debarment as a contractor and subcontractor as provided in 29 U.S.C. § 5.12.

25. Changes. The Chief Procurement Officer may modify the scope of services or quantity and type of goods by giving written notification to Contractor, subject to the funds allocated by the City to this Addendum/Purchase Order. The notice takes effect immediately upon receipt by Contractor.

26. Domestic Preference Requirements. As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this paragraph must be included in all subcontracts and purchase orders for work or products under this Addendum/Purchase Order. For purposes of this paragraph:

- a. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- b. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. As used in this paragraph, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services.

A. Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in this paragraph applies, the Contractor and its Subcontractors shall not use grant, cooperative agreement, loan, or loan guarantee that are funded or financed in whole or in part with federal funds to:

- a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- d. Provide, as part of its performance of this Addendum/Purchase Order, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(3) Exceptions. This paragraph does not prohibit Contractor from providing:

- a. A service that connects to the facilities of a third-party, such as backhaul,

roaming, or interconnection arrangements; or

b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(4) By necessary implication and regulation, the prohibitions also do not apply to:

a. Covered telecommunications equipment or services that:

1. Are not used as a substantial or essential component of any system; and

2. Are not used as critical technology of any system; or

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services;

c. That which 2 CFR Section 200.216 does not apply.

B. Reporting requirement. In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of the services set forth in this Addendum/Purchase Order, or the Contractor is notified of such by a Subcontractor at any tier or by any other source, the Contractor shall report the information in the manner stated below to the recipient or subrecipient, unless elsewhere in this Addendum/Purchase Order are established procedures for reporting the information. Contractor shall report the following information pursuant to this paragraph:

(1) Within one business day from the date of such identification or notification: The Contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(2) Within 10 business days of submitting the information above: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

SIGNATURES

The Parties have executed this Addendum in multiple copies, each of which is an original. Each person signing this Addendum represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Addendum. Each Party represents and warrants to the other that the execution and delivery of this Addendum and the performance of such Party's obligations hereunder have been duly authorized and that the Addendum is a valid and legal agreement binding on such Party and enforceable in accordance with its terms. The Parties hereby agree that each Party may sign and deliver this Addendum electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

VENDOR:

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

Date Signed: _____

CITY OF HOUSTON, TEXAS

Signed by:

Name: _____
Title: _____

EXHIBIT A

TERMS AND CONDITIONS

Terms and Conditions available at http://purchasing.houstontx.gov/PO_terms_conditions.html.

The term "contractor", "sub-contractor", "vendor", "supplier" or "lessee" for the purpose of this document shall have the same meaning, and any reference to word "City", shall mean the City of Houston, Texas. "Purchase Order" shall mean the "Purchase Order", and "Contract" or "Agreement" shall mean the Purchase Order Addendum to which this Exhibit is attached.

Acceptance:

The "City" shall accept the item(s) on the twentieth (20th) business day after the date of receipt of the item(s) by the "City" unless prior to the twentieth (20th) day, the City of Houston Purchasing Agent or his/her designee delivers a notice to the "contractor" stating the reason(s) why the item(s) have not been accepted.

Amendment or Modification:

Except as otherwise provided in this Contract, this Contract shall be subject to change, amendment or modification only by the mutual written consent of the parties hereto.

Anti-Boycott of Israel:

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

Applicable Laws:

This Contract shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston. Venue for any disputes relating in any way to this Contract shall lie exclusively in Harris County, Texas.

Captions:

The captions at the beginning of the Articles of this Contract are guides and labels to assist in locating and reading such Articles and shall not be restrictive of the subject matter of any article, section or part of this Contract.

Default:

If the "contractor" fails to provide the Official Performance Bond (if required by the Purchase Order and/or change order), or the item(s) listed on the purchase order and/or change order at the unit prices quoted, the "City", at its option, may terminate this Contract for default by delivering a

written notice to the "contractor", and the "City" shall have no further obligation under this Contract. At the City's option, through a notice to the "contractor" in writing from the City of Houston Purchasing Agent, the "contractor" may be allowed to cure such default within the time specified in said notice. In the event there is a failure to deliver any item(s), the "City" may cover its loss by reasonably procuring from another source the item(s) not delivered. The "contractor" shall be responsible for and shall pay to the "City" immediately upon demand; the difference in price between that offered by the "contractor" and that which the "City" was forced to pay for covering the "contractor's" failure to deliver. Default by the "City" shall occur if the "City" fails to perform, or observe the terms and conditions of this Contract, and the "contractor" gives notice in writing to the "City" within thirty (30) days of the act or omission claimed by the "contractor". Upon receipt of such notice in writing from the "contractor", the "City" shall have thirty (30) days to cure such default.

Delivery:

The "contractor" shall:

- Deliver the item(s) specified on the purchase order and/or change order to the designated "FOB Point", within the time specified by the "City". Timely delivery is of the essence to this Contract.
- Ensure all deliveries are made on a business day, during business hours (Monday through Friday, except City Council designated holidays, from 8:00 am, to 5:00 pm).
- Provide, at no additional charge, any equipment, labor, packaging, crating or padding necessary to load, tie down and unload the item(s) to be delivered, so that they may be transported in a normal, safe manner without damage.
- Be liable for all risks for the item(s) until accepted by the "City". The "contractor" is responsible for any freight charges incurred in delivering the item(s) to the "FOB Point." A representative of the "City" will sign the "contractor's" delivery ticket to acknowledge receipt of the item(s) by the "City". Unless the "contractor" receives such signature, the "City" shall not be responsible for the receipt of the item(s). The "City" retains the right to inspect the delivered item(s) prior to acceptance and shall not accept item(s) that do not conform to the requirements of this Contract.

In the event the item(s) on the face of the purchase order and/or the change order are services rather than goods, such services shall be performed in accordance with the specifications, or scope of work, and the "City" reserves the right to require the "contractor" to provide service(s) in conformance with such description prior to accrual of the City's obligation for payment.

Equal Opportunity Ordinance:

The "contractor" is and represents to be an equal opportunity employer and agrees to abide by the terms of the "City" of Houston Equal Opportunity Ordinance as follows:

- The "contractor", "sub-contractor", "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", "sub-contractor", "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 limited to: 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", "sub-contractor", "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.
- The "contractor", "sub-contractor", "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.
- The "contractor", "sub-contractor", "vendor", "supplier", or "lessee" will send to each labor union or representative 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 workers representative of the "contractor's" and "sub-contractor'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.
- The "contractor", "sub-contractor", "vendor", "supplier", or "lessee" will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and applicable orders of the Department of Labor or other Federal Agency responsible for enforcement of applicable equal opportunity and affirmative action provisions 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.
- The "contractor" shall file and shall cause each of his "sub-contractor's", 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 "sub-contractor".
- The "contractor", "sub-contractor", "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 Department 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 workforce statistics of the "contractor", "sub-contractor", "vendor", "supplier", or "lessee".
- In the event of the "contractor's", "sub-contractor's", "vendor's", "supplier's", or "lessee's" noncompliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part, and the "contractor", "sub-contractor", "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.

- The "contractor" shall include the provisions of paragraphs 1-6 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 "sub-contractor" or "vendor". The "contractor" will take such action with respect to any "sub-contractor" 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 "sub-contractor" 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.

Firm Price:

The price(s) specified on the face of the purchase order and/or the change order is firm and may not be increased or supplemented on the "contractor's" invoice.

Force Majeure:

Timely performance by the "contractor" is essential to this Contract. However, the "contractor" will not be liable for delays in performing its obligations to the extent such delays are caused by unforeseeable conditions that are beyond the "contractor's" reasonable control, and that are without "contractor's" fault or negligence, subject to the following provisions: Acts of God such as storms or floods, as well as judicial restraints, acts of law-enforcement or military authorities, fires, epidemics, war or riot are examples of events that might be excusable as being beyond the "contractor's" reasonable control: however, no time extension because of an excusable shall ever be allowed unless: (a) within seven (7) calendar days of the commencement of any excusable delay, "contractor" shall provide "City" with written notice of the cause and extent thereof as well as a request for a time extension equal to the estimated duration thereof; and (b) within seven (7) calendar days of the cessation of the event causing delay, "contractor" shall provide "City" with written notice of the actual delay incurred, upon receipt of which, the time for "contractor's" performance shall be extended for the time actually lost by reason of an excusable delay.

Indemnification:

"VENDOR" COVENANTS AND WARRANTS THAT IT WILL PROTECT, DEFEND, AND HOLD HARMLESS THE "CITY", ITS EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ANY AND ALL THIRD PARTY CLAIMS, DEMANDS, AND LIABILITY, INCLUDING DEFENSE COSTS, RELATING IN ANY WAY TO DAMAGES, CLAIMS, OR FINES ARISING BY REASON OF OR IN CONNECTION WITH "VENDOR'S ACTUAL OR ALLEGED NEGLIGENCE OR OTHER ACTIONABLE PERFORMANCE OR OMISSION OF THE "VENDOR" IN CONNECTION WITH OR DURING THE PERFORMANCE OF THE DUTIES UNDER THIS AGREEMENT. "VENDOR" FURTHER COVENANTS AND AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE "CITY" FROM ALL

CLAIMS, ALLEGATIONS, FINES, AND DAMAGES RELATING IN ANY WAY TO THE ACTUAL OR ALLEGED JOINT AND/OR CONCURRENT NEGLIGENCE OF THE "CITY" AND "VENDOR", WHETHER THE "VENDOR" IS IMMUNE FROM LIABILITY OR NOT.

IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, THAT THE INDEMNITY PROVIDED HEREIN IS AN AGREEMENT BY THE "VENDOR" TO INDEMNIFY AND PROTECT THE "CITY" FROM THE CITY'S OWN NEGLIGENCE WHERE SAID NEGLIGENCE IS AN ALLEGED OR ACTUAL CAUSE OF ANY ALLEGED THIRD-PARTY HARM.

THE INDEMNITY PROVISION PROVIDED HEREIN SHALL HAVE NO APPLICATION TO ANY CLAIM OR DEMAND WHERE BODILY INJURY, DEATH, OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE "CITY", UNMIXED WITH ANY FAULT OF ANOTHER PARTY OR ENTITY, INCLUDING THE "VENDOR".

NOTWITHSTANDING, ANYTHING HEREIN TO THE CONTRARY, THE LIABILITY OF THE "VENDOR" UNDER THIS INDEMNITY PROVISION SHALL NOT EXCEED \$600,000 PER OCCURRENCE.

Independent "contractor":

In performing its obligations under this Contract, the "contractor" shall act as an independent "contractor" solely for his own account and not as an agent, representative or employee of the "City". No employee, agent, or representative of the "contractor" shall be considered an employee of the "City" nor be eligible for any benefits, rights or privileges afforded to "City" employees.

Invoices and Payment:

The City of Houston's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later, according to the requirements of the Texas Prompt Payment Act (Tx. Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from vendor as follows:

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

If the City fails to make a payment according to the early payment schedule above but does make the payment within the time specified by the Prompt Payment Act, the City shall not receive the discount, but shall pay no other penalty. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following business day.

The "contractor" shall submit an invoice to the addresses specified on the purchase order and/or change order, no later than thirty (30) days after the date of receipt of the item(s) or service(s) by the "City". At a minimum, each invoice will contain the:

1. Purchase Order number;
2. "Contractor's" name and address;
3. Description of the item(s) delivered;
4. Exact quantity of each item delivered;
5. Date of delivery to the "City";
6. Unit price for each item, if a unit price was offered by the "contractor";
7. Total amount of the charge(s) for the item(s) delivered, which amount shall not exceed the amount of the Purchase Order; and the
8. Name of the City Department that requested the item(s) or service(s).

The "City" shall pay the "contractor" either the lump sum for the item(s) or, if unit prices are specified, the unit price per item for each item multiplied by the number of units actually delivered and received and accepted by the "City". The "City" shall never be obligated to pay a sum greater than the segregate price offered for the item(s). The unit price shall control in the event of a conflict. Payment is due thirty (30) days after the "City" has approved the invoice or after the "City" has accepted the goods, whichever occurs later.

Rejection:

In the event the "City" rejects any item(s), the "contractor" shall have ten (10) days after receipt of notice of such rejection to replace any item(s) with replacements which conform to this Contract, at no additional cost to the "City".

"Sub-contractors" and Suppliers:

If the "contractor" receives payment from the "City" for work performed by any "sub-contractor(s)", or for materials provided by any "supplier(s)", and the "contractor" withholds or has withheld payment to the "sub-contractor(s)" or "supplier(s)" on account of a deficiency in the quality or quantity of that "sub-contractor's" or "supplier's" work or materials, the "City" may withhold the amount associated with such work or materials from any pending or future payments to the "contractor" until the next regular payment to the "contractor" occurring after the "City" receives reasonable documentation that the deficiency has been remedied.

Successors and Assigns:

This Contract shall bind and benefit the respective parties and their legal successors, and shall not be assignable, in whole or in part, by any party hereto without first obtaining the written consent of the other party. This provision is not intended to limit the "contractor's" ability to assign receivables under this Contract, but only applies to performance of the Contract. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the "City".

Tax Exempt Status:

The "City" is exempt from the Federal Excise and Transportation Tax, and the limited Sales and Use Tax. Unless the "City" of Houston Bid Form or specifications specifically indicates otherwise, the price bid must be net exclusive of above-mentioned taxes. A "vendor" desiring refunds of, or exemptions from taxes paid on the item(s) accepted by the "City", must submit the proper forms, and the City of Houston Purchasing Agent, if satisfied as to the facts, and will issue the necessary certificate.

Warranties - Guarantees:

The "contractor" warrants that each item delivered will (1) be new (unless otherwise specified on the face of the Purchase Order, change order or specifications), free from liens and defects in design, materials, workmanship and defects in title (including any defect in the "contractor's" right to sell a patented or copyrighted product or to use a patented process), (2) conform in all respects to the terms of the Purchase Order, change order or specifications, and (3) be of the best quality, if no specific quality is established in the specification(s). If within one (1) year from the date of acceptance by the "City", it appears that an item, or any commercial unit thereof, does not conform to these warranties, and the City of Houston Purchasing Agent notifies the "contractor" within a reasonable amount of time after discovery, the "contractor" shall correct such nonconformity to the satisfaction of the City of Houston Purchasing Agent at the "contractor's" expense.

Should this occur, the "City" may revoke acceptance, and purchase substitute item's correcting the nonconformity. The cost of the substitute item(s) correcting any nonconforming item(s) shall be borne by the "contractor".

Additionally, the "contractor" shall transfer to the "City" any manufacturer's warranty that it has for the item(s).

Insurance:

Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement/Purchase Order. All policies must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall 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 edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverage's in the following amounts:

- Commercial General Liability insurance including Contractual Liability insurance:
\$500,000 per occurrence; \$1,000,000 aggregate
- Workers' Compensation including Broad Form All States endorsement:
Statutory amount
- Automobile Liability insurance:
\$1,000,000 combined single limit per occurrence

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

- Employer's Liability:
Bodily injury by accident \$100,000 (each accident)
Bodily injury by disease \$100,000 (policy limit)
Bodily injury by disease \$100,000 (each employee)

All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, Contractor shall give written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. Within the 30-day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his/her or sole discretion, may:

- Immediately suspend Contractor from any further performance under this Agreement/Purchase Order and begin procedures to terminate for default.
- All certificates of insurance submitted by Contractor shall be accompanied by endorsements for additional insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and waivers of subrogation in favor of the City for Commercial General Liability, Automobile Liability, and Worker's Compensation/Employers' Liability policies. For a list of pre-approved endorsement, forms see [forms.shtml](#). The Director will consider all other forms on a case-by-case basis.
- **NOTE: INSURANCE IS NOT REQUIRED IF ITEM IS DROP-SHIPPED BY MANUFACTURER OR IS DELIVERED BY COMMON CARRIER.**

Termination of Agreement:

By the City for Convenience:

- The City Purchasing Agent may terminate this Agreement/Purchase Order at any time upon 30-calendar days' notice in writing to the Contractor. Upon receipt of such notice, the Contractor shall, unless the notice directs otherwise, discontinue all services in connection with the performance of the Agreement/Purchase Order and shall proceed to cancel promptly all existing orders and Agreement/Purchase Orders insofar as such orders and Agreement/Purchase Orders are chargeable to this Agreement/Purchase Order. As soon as practicable after the receipt of notice of termination, the Contractor shall submit a statement to the appropriate department(s) showing in detail the services performed or items delivered under this Agreement/Purchase Order to date of termination. The City agrees to compensate the Contractor for that portion of the prescribed charges for which the services were actually performed or items delivered under this Agreement/Purchase Order and not previously paid.

By the City for Default by the Contractor:

- In the event that the materials and/or services furnished by the Contractor do not conform to the standard set forth herein, or if the deliveries and servicing of this Agreement/Purchase Order

do not conform to the requirements detailed herein, the City through a written notice from the City Purchasing Agent to the Contractor describing such default may as its options:

- Terminate the Agreement/Purchase Order for default and the City shall have no further obligation under the Agreement/Purchase Order.
- Allow the Contractor to cure default within a reasonable time as specified in the notice. The City, at its sole option, may extend the proposed date of termination to a later date. If prior to the proposed date of termination, the Contractor cures such default to the City's satisfaction, then the proposed termination shall be ineffective. If the Contractor fails to cure such default prior to the proposed date of termination, then the City may terminate its performance under this Agreement/Purchase Order as of such date and have no further obligation under the Agreement/Purchase Order.
- In the event of failure to deliver any or all of the items or to perform required services, the City may cover its loss by reasonably procuring from another source the items not delivered or the services not performed. The Contractor shall be responsible for and shall pay to the City immediately upon demand the difference in price between that offered by the Contractor and that which the City was forced to pay for covering the Contractor's failure to deliver or perform services.

By the Contractor for Default by the City:

- Default by the City shall occur if the City fails to perform or observe the terms and conditions of this Agreement/Purchase Order required to be performed or observed by the City, and the Contractor gives notice in writing to the City within 30 calendar days of the act or omission claimed by the Contractor to constitute default on the part of the City.
- Upon receipt of such notice in writing from the Contractor, however, the City shall have 30 calendar days to cure such default. The Contractor, at its sole option, may extend the proposed date of termination to a later date.
- If City cures such default prior to the proposed date of termination, the proposed termination shall be ineffective. If the City fails to cure such default prior to the proposed date of termination, then the Contractor may terminate its performance under this Agreement/Purchase Order.

Request For Quotation Terms & Conditions:

- All prices quoted shall be made on the form(s) provided by the City of Houston. The use of other forms will not be considered unless you specifically indicate otherwise.
- By submitting a response to the City of Houston, you certify that all items to be furnished to the City of Houston, will not infringe any valid patent or trademark, and if you receive a purchase or contract from the City of Houston, you will (at your own expense) defend any and all actions of suits charging such infringement and save the City of Houston harmless in case of any such infringement.
- When a brand or trade name appears in any specification(s) provided by the City of Houston, it is understood that the brand or trade name referred to, or its approved equal shall be furnished. If, however, you propose similar but not identical items, you must furnish full particulars. If no mention is made of any exception(s), it is assumed that you are offering the item(s) specified and not an approved equal and will be required to furnish and deliver the exact item(s) specified.

- You are required to submit with your response, descriptive literature of equipment or supplies, if the equipment or supplies is from a different manufacturer than those specified by the City of Houston. Should the description(s) furnished in the literature differ from the specification(s) specified by the City of Houston, and no mention is made to the contrary, it shall be construed to mean that you propose to furnish equipment or supplies in accordance with such description(s) and not in accordance with the City's specification(s).
- If requested by the City of Houston, samples of items shall be furnished without charge, and if not destroyed, returned upon request at your expense.
- Time of proposed delivery should be stated in number of calendar days. General terms such as "stock", "immediately", and "as soon as possible", may be cause for rejection.
- Prices should be itemized. The City of Houston reserves the right to award by item or by total bid. In case there is a discrepancy between the unit price(s) and the extension(s), the unit price(s) shall govern.
- The City of Houston reserves the right to reject any or all quotes, or any part(s) thereof.
- The City of Houston is exempt from all Federal Excise Taxes. Consequently, **DO NOT** include these taxes in your price(s) or invoice(s). Taxable items must be so designated, and the City will supply you with a Tax Exemption Certificate. If you believe that certain taxes are payable by the City of Houston, you should list the taxes directly below each item.
- All prices quotes shall be F.O.B. Destination unless otherwise stated by the City of Houston, and will be irrevocable for ninety (90) days.
- All invoices shall be submitted to the address listed on the City of Houston purchase order.
- If you elect not to respond to the solicitation, please sign and indicate that on the solicitation, and return it to return the Buyer along with the reason(s).
- Submission or attachment of QUOTATION FORMS containing your terms and/or conditions is not acceptable, and may result in your response being considered non-responsive.
- The City of Houston's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later, according to the requirements of the Texas Prompt Payment Act (Tx. Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from vendor as follows:
 - Payment Time - 10 Days: 2% Discount
 - Payment Time - 20 Days: 1% Discount
- A vendor may elect not to offer a discount for early payment and the City will make payment net 30 days. Discounts will not be considered in the award evaluation.
- If the City fails to make a payment according to the early payment schedule above, but does make the payment within the time specified by the Prompt Payment Act, the City shall not receive the discount, but shall pay no other penalty. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following business day.

Outline Agreement Terms & Conditions:

The terms and conditions specified in the bid will apply to the outline agreement. The quantities specified on the outline agreements is an **estimate**, consequently, the City of Houston makes no representation either orally or in writing as to the quantity of items that may be purchased from the vendor.

Zero Tolerance Policy For Human Trafficking And Related Activities:

The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of this Agreement's effective date. Contractor shall notify the City's Chief Procurement Officer, City Attorney, and the Director of any information regarding possible violation by the Contractor or its subcontractors providing services or goods under this Agreement within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

EXHIBIT B

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS**

The undersigned certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- (b) Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction: violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph (b) of this certification; and
- (d) Have not within a three (3) year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000.00 or imprisonment for up to five (5) years, or both.

Type Name & Title of Authorized Representative

Signature of Authorized Representative

Date

EXHIBIT C

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31.U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Name of Contractor

RFP or ITB No.

Signature

Printed Name

Title

Date