



**CITY OF HOUSTON
HOUSTON AIRPORT SYSTEM
REQUEST FOR QUALIFICATIONS (RFQ)
SOLICITATION NO.: HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES
GEORGE BUSH INTERCONTINENTAL AIRPORT (IAH),
WILLIAM P. HOBBY AIRPORT (HOU), AND ELLINGTON AIRPORT (EFD)**

Date Issued: June 19, 2020

Pre-Submittal Conference: June 30, 2020, 10:00 A.M.
Via Microsoft Teams at: <https://bit.ly/371e9Ft>

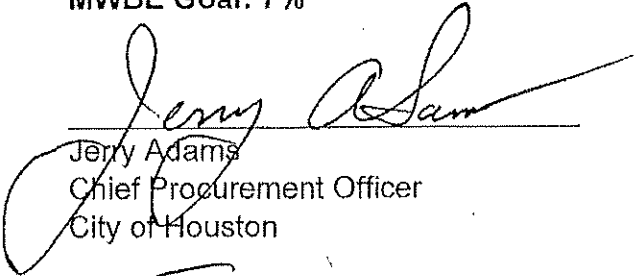
Questions Deadline: July 3, 2020 @ 4:00 P.M.

Solicitation Due Date: Thursday, August 6, 2020 @ 4:00 P.M.

Solicitation Contact Person: Kristen Elliott
Sr. Procurement Specialist
Supply Chain Management, Houston Airport System
kristen.elliott@houstontx.gov

Project Summary: The Houston Airport System (HAS) is seeking one or more qualified firms through this RFQ to provide comprehensive On-Call Financial Consulting Services in support of the HAS Capital Improvement Program for HAS.

MWBE Goal: 7%


Jerry Adams
Chief Procurement Officer
City of Houston

June 4, 2020
Date

Table of Contents

PART I – GENERAL INFORMATION	3
1.0 BACKGROUND	3
2.0 INTRODUCTION.....	3
3.0 SCHEDULE.....	3
4.0 SOLICITATION SCHEDULE	3
PART II – SCOPE OF SERVICES.....	4
5.0 SCOPE OF SERVICES.....	4
PART III - EVALUATION and SELECTION PROCESS	5
6.0 SELECTION PROCESS.....	5
PART IV – SUBMISSION OF RESPONSES	9
7.0 INSTRUCTION FOR SUBMISSIONS.....	9
8.0 SUBMISSION REQUIREMENTS	10
PART V – SPECIAL CONDITIONS	11
9.0 ADDITIONAL INSTRUCTIONS, NOTIFICATIONS AND INFORMATION.....	11
10.0 NO CONTACT PERIOD.....	12
11.0 RIGHT TO VERIFY INFORMATION	13
12.0 SECURITY AND BADGES.....	13
13.0 MINORITY AND WOMAN BUSINESS ENTERPRISES (M/WBE)	14
14.0 PROTEST	14
15.0 CERTIFICATE OF INTERESTED PARTIES	14
PART VI – INSTRUCTIONS TO RESPONDENTS	14
16.0 INSTRUCTIONS TO RESPONDENT.....	16
PART VII – CITY REQUIRED DOCUMENTS AND ATTACHMENTS	16
17.0 FORMS TO BE SUBMITTED WITH STATEMENT OF QUALIFICATION.....	16
18.0 FORMS TO BE SUBMITTED BY THE SUCCESSFUL FIRM.....	16

PART I – GENERAL INFORMATION

1.0 BACKGROUND

1.1 In connection with HAS's implementation of a large-scale capital improvement program, HAS requires financial consulting assistance to prepare capital improvement funding analyses and plans. Financial consulting assistance is also needed to analyze the financial implications of proposed capital improvements on airline and other tenant rates and charges; and prepare airport revenue bond feasibility studies demonstrating compliance with the City's bond ordinance and other financial metrics.

2.0 INTRODUCTION

2.1 The Houston Airport System (HAS) is seeking Statements of Qualifications (RFQ) from interested firms (which may include qualified sub-consultants) to provide comprehensive airport financial consulting services to HAS, as more fully described in Part II, Scope of Services. An agreement with the successful Respondent will require provision of these services on an "on-call" basis for a contract term of five (5) years. The agreement shall be on a non-exclusive basis for the contract term. It may be necessary for the selected firm to interface with several City departments and HAS tenants for completion of the assignment(s) and to do so in accordance with the City Charter and the Code of Ordinances of the City of Houston and applicable state and federal regulations. The firm and its sub-consultants must be able to perform all of the services as requested.

2.2 HAS receives no local tax monies. Operations are funded through revenue from terminal space rentals, landing fees, parking, concessions, other building and ground rentals, and interest earnings. Capital improvements are funded through equity funds, bond proceeds, grants, passenger facility charges, and other funds.

2.3 HAS airports serve the Houston-The Woodlands-Sugar Land Metropolitan Statistical Area (MSA). The City of Houston is the fourth-largest U.S. city, and the MSA is the fifth largest in the country. According to the Federal Aviation Administration, IAH ranks as the fourteenth-busiest airport in the country, and HOU ranks as the thirty-fifth busiest airport as measured by enplaned passenger traffic for calendar year 2018. United has the largest market share of passengers at IAH, and Southwest has the largest market share of passengers at HOU.

3.0 SCHEDULE

3.1 The City may hold interviews for the benefit of clarifying Qualifications. Respondent(s) shall be prepared to accommodate the schedule requirements throughout the procurement process so as not to unreasonably extend the length of the procurement process. Respondent(s) may be required to provide additional information before the City selects the responses that best meet the RFQ requirements.

4.0 SOLICITATION SCHEDULE

4.1 The following schedule has been established for this Solicitation process. The City reserves the right to modify the schedule during the Solicitation process. Changes/Updates will be posted the HAS website: <http://www.houstonairports.biz/> via Letter(s) of Clarification.

Description	Scheduled Date
Date of RFQ (Advertised & Posted on HAS Website)	June 19 & June 26, 2020
Pre-Submittal Conference	June 30, 2020
Deadline for Questions	July 3, 2020
Letter of Clarification(s) Posted on HAS Website	July 29, 2020

Submissions Due from Respondents	August 6, 2020
Notification of Shortlisted Firms (Estimated)	September 7, 2020
Oral Presentations/Interviews (Estimated)	September 22, 2020
Council Agenda Date (Estimated)	October 15, 2020
Contract Start Date (Estimated)	November 1, 2020

PART II – SCOPE OF SERVICES

5.0 SCOPE OF SERVICES

5.1 Scope Overview

5.1.1. Over the course of the contract, a wide variety of skills and capabilities in financial consulting services relating to airport financial and business operations will be required. Assignments of work to be carried out by the firm will be determined by the HAS Director of Finance. Detailed scopes of work and cost estimates will be prepared on an individual basis for each assignment, and task orders will be executed prior to the issuance of a Letter of Authorization (LOA) on any assignment.

5.2 General Scope of Services

5.2.1 The following summarizes the general scope of services for On-call Airport Financial Consulting Services. In general, this RFQ is seeking a firm that will engage in the preparation of financial feasibility studies in support of airport revenue bond issuances, including preparation of sensitivity air traffic and financial forecasts and participation in bond working group, investor and rating agency meetings. The requested services may include but are not limited to the following specific tasks:

- 5.2.2 Analysis of the financial implications of airport development alternatives.
- 5.2.3 Development of capital program funding strategies.
- 5.2.4 Analysis of airline rental, fees, and charges, including preparation of budgeted and year-end rates and charges settlement reports.
- 5.2.5 Analysis of non-airline rentals, fees, and charges including customer facility charges.
- 5.2.6 Negotiation of lease agreements between HAS and airline and non-airline tenants.
- 5.2.7 Analysis of Houston air traffic market, including airline service analysis and the preparation of air traffic forecasts.
- 5.2.8 Analysis related to the City's passenger facility charge (PFC) program for IAH and HOU, including the preparation of PFC applications and amendments.
- 5.2.9 Preparation of industry research and benchmarking studies.
- 5.2.10 Support the development of controls, performance and management metrics and related reports to assure all activities proceed on schedule, within scope, within budget and at quality levels agreed to and as requested.
- 5.2.11 Other financial, business, and operational consulting studies as requested by HAS management.

PART III - EVALUATION and SELECTION PROCESS

6.0 SELECTION PROCESS

HAS seeks to retain the highest quality organization to provide the On-Call Financial Consulting Services solicited under this RFQ.

- 6.1 Submission of a SOQ in response to this RFQ indicates Respondent's acceptance of the evaluation process and the evaluation criteria described herein.
- 6.2 Responses will be evaluated by an Evaluation Committee consisting of City of Houston personnel. The Evaluation Committee may include non-voting, non-City personnel to observe the process and will be appointed by the HAS Airport Director. Evaluation will be based on the evaluation criteria contained herein.
- 6.3 The award of a contract(s) will be made to the Respondent(s) offering the response which best meets the needs of HAS. HAS reserves the right to reject any offer if the Qualifications submitted fails to satisfy HAS that the Respondent is properly qualified to provide the services contemplated as specified.
- 6.4 The City reserves the right to request clarifying information from and ask additional questions of any individual Respondent at any time during the evaluation process. The City also reserves the right to contact any references provided by the Respondent within their Submittal.
- 6.5 The procedure to be used in the selection process is described in the following steps:

6.5.1 Step ONE of the selection process:

SOQs from Respondents responding to the RFQ will be reviewed and evaluated. The Evaluation Committee will score and rank the Respondents based on the criteria listed in Section 7.7 and as further described throughout this RFQ.

6.5.2 Step TWO of the selection process:

With reference to the selection committee's ranking, at the discretion of HAS, a short-list of Respondents may be called upon to participate in an Oral Presentation/Interview with the evaluation selection committee. If this step is used, the firm's Key Personnel will be expected to play a significant role(s) in the Oral Presentation/Interview(s). Candidate firms will be limited to six (6) participants in the interview and will be permitted to present a maximum of a 20-page handout to the Evaluation Committee.

- 6.5.2.1 Respondents will be notified in writing of the date/time and location of their interview if they have been chosen for further consideration.

- 6.5.2.2 After the oral presentations/interviews are completed, the Evaluation Committee may adjust scores which may result in a new ranking of the short-listed firm(s). A recommendation will be made on the firm(s) HAS will begin negotiations with.

6.5.3 Step THREE of the selection process:

- 6.5.3.1 After Step TWO (or Step ONE if no presentation/interview is required), the City will commence contract negotiations with the most qualified Respondent(s). The selected firm(s) will enter into negotiations with HAS to develop a detailed scope of work, cost schedule, and Agreement contract terms and conditions. As part of its Step TWO submittal, Respondent shall provide the City with any comments, as described in Section 17.5, it has regarding the sample contract. If negotiations result in agreement, HAS will seek City Council action for approval of the proposed contract.

6.5.3.2 Notwithstanding the foregoing, the City makes no representation that an award will be made as a result of this RFQ. The City reserves the right to award a contract for all or any portion of the project requirements addressed in this RFQ, award multiple contracts, or to reject any and all responses if deemed to be in the best interest of the City and to re-advertise. Also, the City reserves the right to waive any formalities or technical inconsistencies or delete any requirements from this RFQ when deemed by the City to be in its best interest.

6.5.3.3 Any failure by the Respondent to acquaint itself with the available information shall not relieve it from the obligation of entering into a contract with the City should it be the successful Respondent. The City shall not be responsible for any conclusions or interpretations made by the Respondent of the information made available by the City in this RFQ or independent of this RFQ.

6.6 EVALUATION PROCESS

6.6.2 Each Submittal received will be reviewed for documentation of minimum qualifications, completeness, adherence to the RFQ requirements, and in accordance with the evaluation criteria set forth herein. Submittals from Respondents that meet the Minimum Qualifications will be evaluated. City representatives may also request additional documentation in order to seek clarification of the submittal, and/or request one or more oral interviews with Respondents, and/or perform site visits in order to clarify Respondents' qualifications and capabilities for this Project. HAS, at its sole discretion may choose to develop a shortlist of Respondents for further consideration. Shortlisted Respondents may be scheduled for a structured oral presentation and/or interview. Such presentations will be at no cost to HAS. At the end of the oral presentation and/or interview, the evaluation of the shortlisted Respondents will be completed. The oral presentations and/or interview may be recorded and/or videotaped.

6.7 Evaluation Criteria and Scores

The following criteria will be used in the evaluation and selection of the degree to which the SOQ submitted meets that criterion and the requirements contained in the On-Call Financial Consulting Services Scope.

6.7.2 Respondents meeting the Minimum Qualifications of this RFQ shall be evaluated as follows:

Evaluation Criteria	Max Score
Quality of the Sample Financial Feasibility Report	15
Background and Experience of Key Personnel	25
Firm's Background and Experience Providing Similar Services to Other Airport Operators	20
Management Approach and Understanding of Scope Requirements	40
TOTAL	100
Minimum Qualifications or Requirements	Pass/Fail
Financial Capabilities	Pass/Fail
MWBE Compliance	Pass/Fail

6.8 QUALITY OF THE SAMPLE FINANCIAL FEASIBILITY REPORT (15 Points)

- 6.8.2 The Firm shall provide an example of a financial feasibility report in its entirety, for which the preparation was led by the proposed project director within the past five (5) years. Points will be awarded based on the scope and extent of respondent's knowledge and understanding of the issues warranting the financial feasibility study.
- 6.8.3 Describe the Firm's experience in providing public sector financial consulting services. Identify the total number of professionals employed by your firm who serve as financial consultants to public sector entities.
- 6.8.4 Provide a list of financial advisory assignments completed for similar work for other large and medium-hub operators within the U.S.

6.9 BACKGROUND AND EXPERIENCE OF KEY PERSONNEL (25 Points)

- 6.9.2 Points will be awarded based on the knowledge and experience of proposed team providing on-call financial consulting services. Points will be awarded based on the proposed team's professional qualifications, experience, professional integrity, and competence. Any information that will assist the evaluation committee in making this assessment should be provided. Proposer should also describe its team's knowledge of airport planning and operations, public finance, and FAA regulations, policies, and procedures.
- 6.9.3 The Firm shall propose a specific team of individuals to be assigned to the project, specifying a single project director and key personnel to be assigned to the financial feasibility consulting services.
- 6.9.4 The Project director shall have experience within the past five (5) years managing on-call financial consulting or financial feasibility services for at least two (2) FAA designated large hub airports.
- 6.9.5 Key personnel assigned to financial feasibility consulting services shall have experience preparing at least three (3) airport financial feasibility reports in the past five (5) years.
- 6.9.6 Statement of Qualification (SOQ) shall include resumes for each proposed team member.
- 6.9.7 Identification of key personnel to be assigned to such service

6.10 BACKGROUND AND EXPERIENCE PROVIDING SIMILAR SERVICES TO OTHER AIRPORT OPERATORS (20 Points)

- 6.10.2 Points will be awarded based on proposed team's ability to demonstrate the successful implementation of new/expanded terminals based on financial/feasibility analysis the proposed team has been responsible for, including a listing of individuals involved. Respondents should describe how they meet or exceed the requirements and qualifications relevant to the Scope of Service outlined in this document. Respondents should also include any examples of creative solutions or innovative approaches to problems in their Statement of Qualifications.

6.11 MANAGEMENT APPROACH AND UNDERSTANDING OF SCOPE REQUIREMENTS (40 Points)

- 6.11.1 Points will be awarded based on the respondent's ability to describe (i) unique challenges to this and similar airports, and (ii) opportunities to overcome these challenges including available public or private financing.
- 6.11.2 Provide a sample detailed workplan for conducting a financial feasibility study for an airport revenue bond issue. The plan should include key tasks, category of personnel assigned, and typical level of effort (by personnel category) based on the firm's experience. Describe how the Firm intends to manage an "on-call" contract with HAS, and how you envision achieving maximum effectiveness of this long-term teaming relationship

- 6.11.3 A description of the Respondent's management and organizational approach and methods for performing and providing the scope of services required; including workflow, reporting, and quality assurance procedures.
- 6.11.4 Describe how you have managed "on-call" contracts with other clients.
- 6.11.5 Describe how you manage client expectations.
- 6.11.6 Describe how you firm conducts research and provides ins
- 6.11.7 Describe how you address client confidentiality in general and in particular among airports for which you have provided this service.

6.12 MINIMUM QUALIFICATIONS OR REQUIREMENTS (PASS/FAIL)

- 6.12.1 Firm shall provide a list of financial feasibility studies prepared in the past five (5) years (since 01/01/2015) including issuer name, issuance amount, bond issue year, type of bond (e.g., GARB, PFC), use of proceeds (new money and/or refunding), and project director and other key personnel on engagement.
- 6.12.2 SOQ shall speak to (1) the firm's understanding of the scope of services specific to HAS's financial condition, capital improvement program and air service market characteristics; (2) firm's proposed approach to work; and (3) firm's qualifications providing similar services to other airports.
- 6.12.3 SOQ shall include three (3) references from former or existing clients, at least one of which must be a large hub.
- 6.12.4 Provide a description of how the firm would meet or exceed the requirements and qualifications as described in the Scope of Services of this document.
- 6.12.5 Provide the proposed process for the timely completion of the work, along with the methods the Respondent would use to coordinate the work with the Department of Finance as well as other members of HAS staff.
- 6.12.6 A narrative demonstrating the Respondents understanding of the complexity, challenges, and problems involved in the planning and performing the work, and the approaches for accomplishing the work in light of the challenges specific to HAS's operating conditions.

6.13 FINANCIAL CAPABILITIES (PASS/FAIL)

- 6.13.1 Respondent must provide audited financial statements if they are available. If audited financial statements are not available, Respondent must provide tax returns and along with unaudited or reviewed financials for the last two (2) years.
- 6.13.2 Respondent is required to submit, in a separate, sealed envelope, clearly marked "Financial Statements", one (1) stamped "Original" and one (1) copy of its Financial Statements with its Submittal. Provide one (1) USB thumb drive of the Financials submitted.

6.14 M/WBE Compliance (PASS/FAIL)

- 6.14.1 As referenced in PART V, Section 14.0 MINORITY AND WOMAN BUSINESS ENTERPRISES (M/WBE) and City required documents listed as Exhibits, Attachments, and referenced in PART VII herein.

PART IV – SUBMISSION OF RESPONSES

7.0 -----INSTRUCTION FOR SUBMISSIONS

7.1 Number of Copies. Submit one (1) original (marked Original) signed in BLUE ink by the authorized person that is binding the proposed Design Consultant Firm and ten (10) hard copies and ten (10) electronic copies (USB thumb drives) of its submittal. Submissions are to be submitted in a sealed envelope bearing the assigned Solicitation Number, located on the first page of this RFQ document to:

Attention to Cathy Vander Plaats
Procurement Officer
Supply Chain Management
Houston Airport System
18600 Lee Road
Humble, Texas 77338

7.2 The City shall bear no responsibility for submitting responses on behalf of any Respondent. Respondent(s) may submit their submission to the HAS Supply Chain Management any time prior to the stated deadline.

7.3 City reserves the right to extend the due date for this Request for Qualification as deemed necessary and in its best interests. Any postponement of the due date will be issued by Letter of Clarification (LOC) to this RFQ. The submission of a SOQ does not in any way commit HAS to enter into an agreement with that Respondent or any other Respondent.

City reserves the right to cancel this RFQ, accept or reject, in whole or in part any all or SOQs received in the best interest of the HAS.

- a) Submit, in a separate, sealed envelope, clearly marked "Financial Statements", one (1) stamped "Original" and one (1) copy of Firms' Financial Statements.
- b) NOTE: The word "**ORIGINAL**" shall be stamped on the outside cover and shall contain all of the original documents as specified;
- c) All submittals must be labeled on the outside of the box with the Respondent's name and the name of the project. To enable the City to efficiently evaluate the SOQs, it is MANDATORY that Respondents follow the required format in preparing their Submittal.

7.4 **Time for submission.** Submissions shall be submitted no later than the date and time indicated for submission in this RFQ. Late submittals will not be considered and will be returned unopened.

7.5 **Format.** Submission should be left-bound with information on both sides of the page when appropriate. Pages shall be no larger than letter-size (8 ½" by 11") or folded to that dimension, twice letter size (11" by 17"). Each section (defined above) shall be separated by a tabbed divider. Document text should be in ARIAL 10 point or New Times Roman 12 but must be consistent throughout the document. Material should be organized following the order of the submission requirements separated by labeled tabs. Expensive paper and bindings are discouraged since no materials will be returned. Submissions shall be submitted no later than the date and time indicated for submission in this RFQ. Late submittals will not be considered and will be returned unopened.

7.6 **Complete Submission.** Respondents are advised to carefully review all the requirements and submit all documents and information as indicated in this RFQ. Incomplete submissions may lead to a submission being deemed non-responsive. Non-responsive submissions will not be considered.

7.7 **Packaging and Labeling.** The outside wrapping/envelope shall clearly indicate the RFQ Title and date and time for submission. It shall also indicate the name of the respondent.

7.8 Timely Delivery of Submissions. The Submittal must be delivered by hand or sent to the Houston Airport System, Supply Chain Management Division through U.S. Mail or other available courier services to the address shown on the cover sheet of this RFQ. Include the RFQ number on any package delivered or sent to the Supply Chain Management Division and on any correspondence related to the Submittal. If using an express delivery service, the package must be delivered to the designated building. Packages delivered by express mail services to other locations might not be re-delivered in time to be considered.

7.9 Late Submissions. The Respondent remains responsible for ensuring that its Submission is received at the time, date, place, and office specified. The City assumes no responsibility for any Submission not so received, regardless of whether the delay is caused by the U.S. Postal Service, the courier delivery service, or some other act or circumstance.

8.0 SUBMISSION REQUIREMENTS

Each RFQ response shall be organized in the following order:

8.1 OUTSIDE COVER

This shall contain the name of the RFQ "**HKE-OCAFCS-2020-010 ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**", the name of the Respondent, and the submittal date. Remember to label the original documents as "**ORIGINAL**" on the outside cover.

8.2 TABLE OF CONTENTS

8.3 TEAM INTRODUCTION LETTER

Letter shall contain a brief summation introducing all individuals proposed for the Team and their proposed role.

8.4 SECTION 1 – TRANSMITTAL LETTER (Maximum one (1) page)

8.4.1 Submit a one (1) page transmittal letter to Cathy Vander Plaats, Procurement Officer, Houston Airport System. The transmittal letter shall state: "The Submittal is valid for 270 days, and that the signer of the document is authorized by the Respondent to sign the document."

8.4.2 The letter shall contain the name and role of all individuals proposed for the Team, and the Respondent must certify that all Key Personnel of the Team are selected based on demonstrated competence and qualifications.

8.4.3 The letter must include a statement committing the availability of all Key Personnel identified in the RFQ to perform the work.

8.4.4 One copy of the transmittal letter shall contain the original signature of the team lead.

8.4.5 The Respondent's transmittal letter must acknowledge the receipt of all RFQ Letters of Clarification.

8.5 SECTION 2 – EXECUTIVE SUMMARY

8.5.1 The Executive Summary should provide an overview of the qualifications necessary to accomplish the project, which includes a narrative statement of the Respondent's understanding of the project and key points in their Statement Qualifications. At a minimum, the Executive Summary must contain the following information:

8.5.1.1 Complete legal name of the Respondent, the name of the legal entities that comprise the Respondent, and all proposed sub-consultants. The Respondent must provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity,

contact name, address, phone number, and email address, as well as the legal structure of the entity and a listing of major satellite offices. If the Respondent is made up of more than one firm, the legal relationship between these firms must be described.

- 8.5.1.2 Prepare a narrative statement that describes the Respondent's understanding of the work involved in performing the Scope of Services described in Part II.
- 8.5.1.3 The Respondent shall address its understanding of the following:
 - a. Proposed Scope of Services
 - b. The complexity, challenges, and problems involved in planning and performing the work associated with the Proposed Scope of Services
 - c. Description on how to best utilize sub-consultants to achieve project success
 - d. Approach and philosophy of dealing with problems
 - e. Experience dealing with key issues
 - f. Any additional issues or matters relating to the Scope of Service that the Respondent believes should be addressed
- 8.6 If the Respondent believes any information, data, process or other material in its SOQ should be considered by the City to be confidential or proprietary, the Respondent shall identify that material with specificity as to the page and paragraph and on what basis the material is believed to be proprietary or confidential.
- 8.7 **SECTION 4 – QUALITY OF THE SAMPLE FINANCIAL FEASIBILITY REPORT**, Refer to Section 6.
- 8.8 **SECTION 5 – BACKGROUND AND EXPERIENCE OF KEY PERSONNEL**, Refer to Section 6.9
- 8.9 **SECTION 6 - FIRM'S BACKGROUND AND EXPERIENCE PROVIDING SIMILAR SERVICES TO OTHER AIRPORT OPERATORS**, Refer to Section 6.10
- 8.10 **SECTION 7-MANAGEMENT APPROACH AND UNDERSTANDING OF SCOPE REQUIREMENTS**, Refer to Section 6.11
- 8.11 **SECTION 8 – MINIMUM QUALIFICATIONS OR REQUIREMENTS**, Refer to Section 6.12
- 8.12 **SECTION 9 - FINANCIAL CAPABILITIES**, Refer to Section 6.13
- 8.13 **SECTION 10 - M/WBE Compliance**, Refer to Section 6.14
- 8.14 **SECTION 11 – REQUIRED FORMS**
 - 8.14.1 The Firm shall provide the completed forms included as exhibits to this RFQ.
If the Respondent believes any information, data process, or other material contained in its should be considered to be confidential or proprietary by the City, the respondent shall identify that material with specificity as to the page and paragraph, and on what basis the material is believed to be proprietary or confidential.

PART V – SPECIAL CONDITIONS

9.0 ADDITIONAL INSTRUCTIONS, NOTIFICATIONS AND INFORMATION

- 9.1 A cost proposal is expressly excluded from this submittal. Cost will be discussed in the negotiation process.
- 9.2 Respondents who provide false or misleading information, whether intentional or not, in any documents presented to City for consideration in the selection process shall be excluded. Any false or misleading information in these documents would in effect, render the entire document suspect and therefore useless.

- 9.3 Respondents shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the City for the purposes of influencing this selection. Any attempt by the Respondent to influence the selection process by any means, other than disclosure of qualifications and credentials through the proper channels, shall be grounds for exclusion from the selection process.
- 9.4 INTERVIEWS - If interviews are needed, short-listed Respondents may be given instruction for interviews. These interviews will focus on clarifying and amplifying Respondent's Submittal, which may include, but not limited to, identification of the Respondent's program approach, and appraisal of personnel who will be directly involved in the project.
- 9.5 COST OF RFQ's - City will not be responsible for costs incurred by anyone in the submittal of SOQ(s) or for any costs incurred prior to the execution of a formal contract.
- 9.6 CONTRACT NEGOTIATIONS - This RFQ is not to be construed as a contract or as a commitment of any kind. If this RFQ results in a contract offer by the City; a specific scope of work, fees, insurance coverage's, and other contractual matters will be determined during contract negotiations. To ensure that the appropriate staff is assigned to the project, City may include a "key persons" clause during contract negotiations.
- 9.7 CONFIDENTIAL INFORMATION - All responses shall be held confidential from other parties by the City to the extent allowable by law until after the selection process is completed. Respondents should be aware that at the completion of the selection process the contents of their RFQ are subject to the provisions of the Texas Open Records Act and may be made public. CONFIDENTIAL or SENSITIVE information should not be included in the RFQ.
- 9.8 This RFQ is not to be construed as a contract or a commitment of any kind, nor does it commit the City to pay for any cost incurred in the preparation of a submission or of any costs incurred prior to the execution of a final contract.
- 9.9 In the event that a mutually agreeable contract cannot be negotiated between the consultant and City, then City reserves the right to select the next qualified firm.
- 9.10 No debriefings by City staff to unsuccessful Respondents will occur until after the award of a contract by the Houston City Council to the recommended team(s).
- 9.11 The Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order 1-31, Revised 3/1/95) requires that all contractors who are awarded City contracts for labor or services comply with the compliance with the Executive Order (EO) and will have to file the following documents with the Aviation Department's Contract Compliance Officer for Drug Testing (CCODT) prior to award.
- a. A copy of the Respondent's drug-free workplace policy
 - b. A Drug Policy Compliance Agreement substantially in the format described in the EO, together with a designation of safety impact positions.
 - c. If applicable, a Certification of No Safety Impact Positions substantially in the format described in the EO.
- 9.12 The successful respondent will have to complete an Affidavit of Ownership or Control prior to completion of contract negotiations. The affidavit certifies that the firm is not delinquent in any debt owed to the City of Houston (taxes, fines, fees, etc.).
- 10.0 **NO CONTACT PERIOD**
- Neither Respondent(s) nor any person acting on Respondent(s)'s behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City of Houston, their families or staff members. All inquiries regarding the solicitation are to be directed to the designated City Representative identified on the first page of the solicitation, Kristen Elliott, Sr. Procurement Specialist. Upon issuance of the

solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award, aside from Respondent's formal response to the solicitation, through the pre-award phase, written requests for clarification during the period officially designated for such purpose by the City Representative, neither respondent(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City of Houston, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any Respondent. However, nothing in this paragraph shall prevent a Respondent from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

10.1 Guidance

Interested parties should always contact the designated City Representative regarding the substance of this procurement. It is permissible to also contact the following, based on the specific circumstances:

- a. Questions regarding programs administered by the Office of Business Opportunity (OBO) may be submitted directly to OBO without going through the City Representative for this procurement.
- b. Questions regarding the process in general or that the City Representative may not be able to answer may be submitted to the Chief Procurement Officer.
- c. Communications with the City Legal Department regarding contract terms after notification of intent to award are permissible.

11.0 RIGHT TO VERIFY INFORMATION

The Houston Airport System reserves the right to:

- 1) Evaluate the SOQ's submitted;
- 2) Waive any irregularities therein;
- 3) Select Respondents for the submittal of more detailed information;
- 4) Request supplemental or additional information as necessary
- 5) Accept any submittal or portion of a submittal;
- 6) Contact others to verify information provided in the submittal; and/or
- 7) Reject any or all Respondents submitting SOQs, should it be determined in HAS' best interests.

12.0 SECURITY AND BADGES

- 12.1 The Respondent shall comply with all applicable Federal rules, as amended from time to time, governing security at the Airport.
- 12.2 All on-site personnel of Respondent, including Subconsultants, who perform services under the Agreement, are required to undergo a fingerprint-based criminal history records check. Fingerprints are collected at the Airport Badging Office and submitted electronically for investigation.
- 12.3 The Respondent shall obtain HAS security badges for its personnel performing services on-site, including its subcontractors' personnel. On-site personnel shall wear identification badges at all times while on Airport property. The cost of badges, which is subject to change, is currently \$55.00 each at IAH/HOU and \$16.00 at EFD. Costs for the fingerprint-based criminal history records check is reflected in the cost of the badges. The Respondent is responsible for the cost of badges, including replacements thereof. The Respondent personnel losing badges will be charged for replacement badges at the then-current rate. Badge yearly renewal cost is currently \$16.00.

12.4 The Respondent acknowledges that fines or penalties associated with non-compliance with security regulations shall be reimbursed to HAS.

13.0 **MINORITY AND WOMAN BUSINESS ENTERPRISES (M/WBE)**

13.1 Respondent shall comply with the City's M/WBE programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Respondent shall make good faith efforts to award subcontracts or supply agreements in at least 7% of the value of this Agreement to M/WBE's. Respondent acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity (OBO) and will comply with them.

14.0 **PROTEST**

14.1 An interested party may file a protest on the basis that the City has failed to comply with applicable federal or state law or with City ordinances as set forth in City of Houston Administrative Policy 5-12. See AP 5-12 <https://www.houstontx.gov/adminpolicies/5-12.pdf>.

15.0 **CERTIFICATE OF INTERESTED PARTIES**

15.1 In accordance with Texas Gov't Code §2252.908, the successful Respondent must complete Form 1295, Certificate of Interested Parties. Form 1295 is available for downloading on the Texas Ethics Commission's (TEC) website: <https://www.ethics.state.tx.us/filinginfo/1295/> .

The successful Respondent must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certificate.

No later than 30 days after the contract's effective date, the City will upload the successful respondent's completed Form 1295. The TEC will post the Contractor's completed Form 1295 within seven (7) business days of receipt.

For your reference, Form 1295 is attached as part of this document.

PART VI – INSTRUCTIONS TO RESPONDENTS

16.0 **INSTRUCTIONS TO RESPONDENT**

16.1 **Pre-Submission Conference**

A Pre-Submission Conference will be held at the date, time, and location as indicated on the first page of the RFQ document. Interested Respondent(s) should plan to attend. It will be assumed that potential Respondent(s) attending this meeting have reviewed the RFQ in detail and are prepared to bring up any substantive questions not already addressed by the City. **Attendance is highly recommended but is not mandatory.**

16.2 **Additional Information and Specification Changes**

Requests for additional information and questions should be addressed via email to the HAS Sr. Procurement Specialist, Kristen Elliott, at kristen.elliott@houstontx.gov, no later than 4:00 pm July 3, 2020. Emailed questions should include the solicitation name and title in the subject line. The City shall provide written responses to all questions received in writing before the submittal deadline. Questions received from all Respondent(s) shall be answered and sent to all Respondent(s) who are listed as having obtained the RFQ. Respondent(s) shall be notified in writing of any changes in the specifications contained in this RFQ.

16.3 Letter(s) of Clarification

- 16.3.1 All Letters of Clarification and interpretations to this Solicitation shall be in writing. Any Letter of Clarification(s) or interpretation that is not in writing shall not legally bind the City. Only information supplied by the City in writing or in this RFQ should be used in preparing Submission responses.
- 16.3.2 The City does not assume responsibility for the receipt of any Letters of Clarification sent to Respondent(s).

16.4 Examination of Documents and Requirements

- 16.4.1 Each Respondent shall carefully examine all RFQ documents and thoroughly familiarize themselves with all requirements prior to submitting a Submission to ensure that the Submission meets the intent of this RFQ.
- 16.4.2 Before submitting a Submission, each Respondent shall be responsible for making all investigations and examinations that are necessary to ascertain conditions and affecting the requirements of this RFQ. Failure to make such investigations and examinations shall not relieve the Respondent from obligation to comply, in every detail, with all provisions and requirements of the RFQ.

16.5 Exceptions to Terms and Conditions

- 16.5.1 All exceptions included with the Submission shall be submitted in a clearly identified separate section of the Submission in which the Respondent clearly cites the specific paragraphs within the RFQ where the Exceptions occur. Any Exceptions not included in such a section shall be without force and effect in any resulting contract unless such Exception is specifically referenced by the Chief Procurement Officer, City Attorney, Director(s) or designee in a written statement. The Respondent's preprinted or standard terms will not be considered by the City as a part of any resulting contract.
- 16.5.2 All Exceptions that are contained in the Submission may negatively affect the City's Submission evaluation based on the evaluation criteria as stated in the RFQ or result in possible rejection of Submission.

16.6 Post-Submission Discussions with Respondent(s)

It is the City's intent to commence final negotiation with the Respondent(s) deemed most advantageous to the City based on qualifications. The City reserves the right to conduct post-Submission discussions with any Respondent(s).

16.7 Anti-Boycott of Israel

City vendors are required to certify that they are not currently engaged in, and agrees until the funds are exhausted under its contract with the City not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code:

(<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.808.htm#808.001>).

16.8 Executive Order 1-56 Zero Tolerance for Human Trafficking in City Service Contracts and Purchasing

The City of Houston has a zero tolerance for human trafficking, and, per Executive Order 1-56, City funds shall not be used to promote human trafficking. City vendors are expected to comply with this Executive Order and notify the City's Chief Procurement Officer of any information regarding possible violation by the vendor or its subcontractors providing services or goods to the City. The Executive Order is available on the City's website: <http://www.houstontx.gov/execorders/1-56.pdf>.

16.9 Subchapter J, Chapter 552 Additional Provisions Related To Contracting Information

"The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter." (<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.552.htm#552>)

PART VII – CITY REQUIRED DOCUMENTS AND ATTACHMENTS

17.0 FORMS TO BE SUBMITTED WITH STATEMENT OF QUALIFICATION

- Exhibit A – 00454 Affidavit of Non-Interest
- Exhibit B – 00455 Ownership Information Form
- Exhibit C – 00457 Conflict of Interest Questionnaire
- Exhibit D – 00460 Pay or Play Acknowledgement Form
- Exhibit E – 00480 Reference Verification Form
- Exhibit F – 00481 Anti-Collusion Statement
- Exhibit G– Attachment "A": Schedule of M/WBE Participation
- Exhibit G– Attachment "B": M/WBE Letter of Intent
- Exhibit G– Attachment "C": Certified M/WBE Subcontract Terms
- Exhibit G– Attachment "D": Mayor's Office of Business Opportunity M/WBE Utilization Report
- Exhibit Q – Contact Directory Form

18.0 FORMS TO BE SUBMITTED BY THE SUCCESSFUL FIRM

- Exhibit H – 00501 Resolution of Contractor
- Exhibit I – 00600 List of Proposed Subs
- Exhibit J – 00601 Drug Policy Compliance Agreement
- Exhibit K – 00606 No Safety Impact Positions
- Exhibit L – 00620 Affidavit of Insurance
- Exhibit M – 00621 Certificate of Insurance ACORD Form Financial liability Insurance form
- Exhibit N – 00630 Certification of Compliance with Pay or Play Program (POP-2) Program
- Exhibit O – 00631 Pay or Play Program List of Subcontractors (POP-3) Program
- Exhibit P – 00632 Certification by Professional Service Provider
- Exhibit Q – 00636 Certificate of Interested Parties Form 1295

NOTE: Exhibits are available at the Houston Airport System website,

<https://www.fly2houston.com/biz/opportunities/solicitations/>

other City of Houston Office of Business Opportunity Forms website,
<http://www.houstontx.gov/obo/popforms.html>

AFFIDAVIT OF NON-INTEREST

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who
Affiant

being by me duly sworn on his oath stated that he is _____, of
Title

Name of Firm

the firm named and referred to and in the foregoing; and that he knows of no officer, agent, or employee of the City of Houston being in any manner interested either directly or indirectly in such Contract.

Affiant's Signature

SWORN AND SUBSCRIBED before me on _____,
Date

Notary Public in and for the State of TEXAS

Print or type name

My Commission Expires: _____
Expiration Date

END OF DOCUMENT

**EXHIBIT B - Document 00455
OWNERSHIP INFORMATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Document 00455

OWNERSHIP INFORMATION FORM

The City of Houston Ownership Information Form is used to gather information to comply with:

- a. The City of Houston Contractor Ownership Disclosure Ordinance (Chapter 15 of the Code of Ordinances, Article VIII, City Contracts; Indebtedness to City);
- b. The City of Houston Fair Campaign Ordinance (Chapter 18 of the Code of Ordinances); and,
- c. The State of Texas Statement of Residency Requirements (Tex. Govt. Code Chapter 2252).

Please complete the form, in its entirety, and submit it with the Official Bid or Proposal Form. Except as noted below regarding the Statement of Residency, failure to provide this information may be just cause for rejection of your bid or proposal.

NOTICE OF AFFIRMATIVE ACCEPTANCE OF THE CITY OF HOUSTON FAIR CAMPAIGN ORDINANCE

By submitting a bid or proposal to the City of Houston for a Contract in excess of \$50,000 or for which a request is presented to City Council for approval, all respondents agree to comply with the Chapter 18 of the Code of Ordinances.

Further, pursuant to Section 18-36 of the Code of Ordinances, it shall be unlawful either for any person who submits a bid or proposal to contribute or offer any contribution to a candidate or for any candidate to solicit or accept any contribution from such person for a period commencing at the time of posting of the City Council Meeting Agenda including an item for the award of the Contract and ending upon the 30th day after the award of the Contract by City Council.

INSTRUCTIONS

1. Please **type** or **legibly print in dark ink** responses. Individuals and entities should disclose their full, legal names (not initials) and all required corporate letters ("Inc", "LLP", etc.).
 - a. If a firm is operating under an assumed name, the following format is recommended:
Corporate/Legal Name DBA Assumed Name.
2. Full addresses are required, including street types ("St", "Rd", etc.) and unit number.
3. Individuals or entities with 10% or more ownership of the corporation, partnership, or joint venture (including persons who own 100%) are required to be disclosed with their full name and full address. All officers and directors are also required to be disclosed with their full name and full address.

00455-1
12/23/2019

**EXHIBIT B - Document 00455
OWNERSHIP INFORMATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

PROJECT AND BID/PROPOSAL PREPARER INFORMATION

Project or Matter Being Bid: _____

Bidder's complete firm/company business information

Name: _____

Business Address [No./Street] _____

City / State / Zip Code _____

Telephone Number _____

Bidder's email address

Email Address: _____

STATEMENT OF RESIDENCY

(THE STATEMENT OF RESIDENCY PORTION OF THIS DOCUMENT IS **NOT APPLICABLE** IF THE
SOLICITATION INDICATES FEDERAL FUNDS WILL BE USED)

TEX. GOV'T CODE §2252.001, §(4) defines a "**Resident bidder**" as a bidder whose principal place of business* is in this state and includes a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

TEX. GOV'T CODE §2252.001§ (3) defines a "**Nonresident bidder**" as a bidder who is not a resident in this state.

* Principal Place of Business in Texas means that the business entity:

- has at least one permanent office located within the **State of Texas**, from which business activities other than submitting bids to governmental agencies are conducted and from which the bid is submitted; and
- has at least one employee who works in the Texas office.

Based on the definitions above, your business is a:

TEXAS RESIDENT BIDDER

NONRESIDENT BIDDER

If you are a Nonresident Bidder, does your home state have a statute giving preference to resident bidders? If so, you must attach a copy of the statute to this Document.

A copy of the State of _____ statute is attached.

NOTE: The State of residency of a bidder is not used in the decision-making criteria for the award of contracts for projects receiving federal funding, whether in whole or in part.

00455-2
12/23/2019

EXHIBIT B - Document 00455
OWNERSHIP INFORMATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES
CONTRACTING ENTITY ORGANIZATIONAL ENTITY TYPE

FOR PROFIT ENTITY:

- SOLE PROPRIETORSHIP
- CORPORATION
- PARTNERSHIP
- LIMITED PARTNERSHIP
- JOINT VENTURE
- LIMITED LIABILITY COMPANY
- OTHER (*specify in space below*)

NON-PROFIT ENTITY:

- NON-PROFIT CORPORATION
- UNINCORPORATED ASSOCIATION

LISTING OF ADDRESSES

List all current and prior addresses where the bidder does/has done business or owns property (real estate and/or business personal property) in the city of Houston ("Houston") in the past 3 years from the date of submittal of this form. If within the past 3 years from the date of submitting this form, the bidder does not and has not done business and has not or does not own property (real estate and/or business personal property) in Houston, please state "None" on the first line below.

Address

Address

Address

ATTACH ADDITIONAL SHEETS AS NEEDED.

00455-3
12/23/2019

EXHIBIT B - Document 00455
OWNERSHIP INFORMATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES
LISTING OF OFFICERS

LIST ALL OFFICERS OF THE ENTITY, REGARDLESS OF THE AMOUNT OF OWNERSHIP (IF NONE STATE "NONE")

Name	Officer		Address
Name	Officer		Address
Name	Officer		Address
Name	Officer		Address
Name	Officer		Address
Name	Officer		Address

LISTING OF DIRECTORS OR MEMBERS

LIST ALL DIRECTORS OF THE ENTITY, REGARDLESS OF THE AMOUNT OF OWNERSHIP (IF NONE STATE "NONE")

Name	Director or Member		Address
Name	Director or Member		Address
Name	Director or Member		Address
Name	Director or Member		Address
Name	Director or Member		Address

EXHIBIT B - Document 00455
OWNERSHIP INFORMATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES
DISCLOSURE OF OWNERSHIP (OR NON-PROFIT OFFICERS)

Bidders are required to disclose all owners of 10% or more of the Contracting Entity. For non-profit entities, please provide the complete information for the President, Vice-President, Secretary, and Treasurer.

IN ALL CASES, USE FULL NAMES, LOCAL BUSINESS AND RESIDENCE ADDRESSES AND TELEPHONE NUMBERS. DO NOT USE POST OFFICE BOXES FOR ANY ADDRESS. INCLUSION OF E-MAIL ADDRESSES IS OPTIONAL BUT RECOMMENDED.

ATTACH ADDITIONAL SHEETS AS NEEDED.

Contracting Entity:

Name: _____
Business Address [No./Street] _____
City / State / Zip Code _____
Telephone Number _____
Email Address: _____

DISCLOSURE OF OWNERSHIP (OR NON-PROFIT OFFICERS) continued.

Owner(s) of 10% or More (IF NONE, STATE "NONE."):

Name: _____
Business Address [No./Street] _____
City / State / Zip Code _____
Telephone Number _____
Email Address: _____
Residence Address [No./Street] _____
City / State / Zip Code _____

Owner(s) of 10% or More (IF NONE, STATE "NONE."):

Name: _____
Business Address [No./Street] _____
City / State / Zip Code _____
Telephone Number _____
Email Address: _____
Residence Address [No./Street] _____
City / State / Zip Code _____

ATTACH ADDITIONAL SHEETS AS NEEDED.

00455-5
12/23/2019

EXHIBIT B - Document 00455
OWNERSHIP INFORMATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES
OPTIONAL: TAX APPEAL INFORMATION

If the firm/company or an owner/officer is actively protesting, challenging, or appealing the accuracy and/or amount of taxes levied with a tax appraisal district, please provide the following information:

Debtor (Firm or Owner Name):	
Tax Account Nos.:	
Case or File Nos.:	
Attorney/Agent Name:	
Attorney/Agent Phone No.:	
Tax Years:	

Status of Appeal **[DESCRIBE]**:

If an appeal of taxes has been filed on behalf of your company, please include a copy of the official form received by the appropriate agency.

REQUIRED: UNSWORN DECLARATION

I certify that I am duly authorized to submit this form on behalf of the firm, that I am associated with the firm in the capacity noted below, and that I have personal knowledge of the accuracy of the information provided herein. I affirm that all the information contained herein is true and correct to the best of my knowledge. I understand that failure to submit accurate information with my submission may result in my submission being considered non-responsive and non-responsible.

Preparer's Signature	Date
Printed name	
Title	

NOTE: This form constitutes a **governmental record**, as defined by Section 37.01 of the Texas Penal Code. Submission of a false government record and falsification of a governmental record are crimes, punishable as provided in Section 37.10 of the Texas Penal Code.

00455-1
12/23/2019

EXHIBIT C – 00457 CONFLICT OF INTEREST QUESTIONNAIRE
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

Document 00457

Conflict of Interest Questionnaire

Print out latest version (Amended 06/29/2007 or later) of the CIQ form from website listed below:

Local Government Code Chapter 176 requires Bidders with the City of Houston ("City") to file a Conflict of Interest Questionnaire with the City Secretary of the City of Houston.

The Conflict of Interest Questionnaire is available for downloading on the Texas Ethics Commission's website at: <http://www.ethics.state.tx.us/forms/CIQ.pdf> The completed Conflict of Interest Questionnaire will be posted on the City Secretary's website. Also, you will find a list of the City Local Government Officers on the City Secretary's website.

For your convenience the CIQ form is attached as part of this document. Although the City has provided this document for the Bidders convenience, it is the Bidders responsibility to submit the latest version of the CIQ form as promulgated by the Texas Ethics Commission.

The Failure of any Bidder to comply with this law is a Class C misdemeanor.

END OF DOCUMENT

00457
3-3-201

EXHIBIT C – 00457 CONFLICT OF INTEREST QUESTIONNAIRE
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.
 This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).
 By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.
 A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY
Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

 Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 _____
 Signature of vendor doing business with the governmental entity

 Date

EXHIBIT C – 00457 CONFLICT OF INTEREST QUESTIONNAIRE
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

EXHIBIT D – 00460
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES
PAY OR PLAY ACKNOWLEDGEMENT FORM

Form POP-1



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.**

Solicitation Number

Signature

Date

Print Name

City Vendor ID

Company Name

Phone Number

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.

EXHIBIT E – 00480 REFERENCE VERIFICATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

1.0 REFERENCES

- 1.1 Contractor must be able to demonstrate that they have sufficient expertise, qualified personnel experienced and that their company has done or currently providing the services of similar size as specified in the statement of work. Contractor must have been actively engaged as an actual business entity in the activities described in the bid document for at least the five (5) years immediately prior to the submission of their bid.
- 1.2 The reference(s) must be included in the space provided below. Additional pages may be added if necessary. References must be included at the time of bid submittal.

LIST OF CURRENT/PREVIOUS CUSTOMERS

1. Company Name: _____
 Contact Person/Title: _____ Phone No.: _____
 E-mail Address: _____
 Address: _____
 Contract Award Date: _____ Contract Completion Date: _____
 Contract Name/Title: _____
 Project Description: _____

2. Company Name: _____
 Contact Person/Title: _____ Phone No.: _____
 E-mail Address: _____
 Address: _____
 Contract Award Date: _____ Contract Completion Date: _____
 Contract Name/Title: _____
 Project Description: _____

3. Company Name: _____
 Contact Person/Title: _____ Phone No.: _____
 E-mail Address: _____
 Address: _____
 Contract Award Date: _____ Contract Completion Date: _____
 Contract Name/Title: _____
 Project Description: _____

**EXHIBIT E – 00480 REFERENCE VERIFICATION FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

SAMPLE	REFERENCE VERIFICATION
Houston Airport System	
Planning, Design & Construction	
Reference Verification for _____ (Respondent's Company Name)	
Name of Company:	
Name of Contact:	
Phone Number of Contact:	
E-Mail Address of Contact:	
QUESTIONS TO BE ASKED BY HOUSTON AIRPORT SYSTEM	
1. When did this company perform work for you?	
2. What type of service did this company perform for you?	
3. Did they perform the work as agreed?	
4. Was the company timely with responding to your needs?	
5. How many instances of services has this company provided for you?	
6. Did company representatives conduct themselves in a professional manner?	
7. Would you do business with this company again?	
Additional Comments:	
Name/Phone Number of Person conducting Reference Verification:	
SIGNATURE: _____ DATE: _____	

ANTI-COLLUSION STATEMENT

The undersigned, as Respondent, certifies that the only person or parties interested in this Proposal as principals are those named herein; that the Respondent has not, either directly or indirectly entered into any Agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the award of this Contract.

Date

Respondent Signature

EXHIBIT G- ATTACHMENT "A": SCHEDULE OF M/WBE PARTICIPATION
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

DATE OF REPORT: _____

BID NO.: _____

FORMAL BID TITLE: _____

NAME OF MINORITY/WOMEN SUBCONTRACTOR	OFFICE OF BUSINESS OPPORTUNITY CERTIFICATION NO.	STREET ADDRESS AND CITY, STATE, ZIP CODE	TELEPHONE NO.	SCOPE OF WORK	AGREE PRICE
TOTAL					\$ _____
MWBE PARTICIPATION AMOUNT.....					\$ _____ %
TOTAL BID AMOUNT.....					\$ _____

EXHIBIT G-- ATTACHMENT "A" (CONTINUED): SCHEDULE OF M/WBE PARTICIPATION
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

IF YOU HAVE USED YOUR BEST EFFORTS TO CARRY OUT THE CITY'S M/WBE POLICY BY SEEKING SUBCONTRACTS AND SUPPLY AGREEMENTS WITH MINORITY AND WOMEN BUSINESS ENTERPRISES, YET FAILED TO MEET THE STATED PERCENTAGE GOAL OF THIS BID DOCUMENT, LIST BELOW YOUR GOOD FAITH EFFORTS FOR COMPLIANCE (DEFINITION OF REQUIREMENTS CAN BE OBTAINED THROUGH THE OFFICE OF BUSINESS OPPORTUNITY AT (713) 837-9000).

THE UNDERSIGNED WILL ENTER INTO A FORMAL AGREEMENT WITH THE MINORITY AND/OR WOMEN SUBCONTRACTORS AND SUPPLIERS LISTED IN THIS SCHEDULE CONDITIONED UPON AWARD OF A CONTRACT FROM THE CITY.

NOTE:
ALL FIRMS LISTED ABOVE MUST BE CERTIFIED (OR ELIGIBLE FOR CERTIFICATION) BY THE OFFICE OF BUSINESS OPPORTUNITY.
THIS SCHEDULE OF M/WBE PARTICIPATION SHOULD BE RETURNED, IN DUPLICATE, WITH THE BID FORM.

BIDDER COMPANY NAME

SIGNATURE OF AUTHORIZED OFFICER OR AGENT OF BIDDER

NAME (TYPE OR PRINT)

TITLE

**EXHIBIT G – Attachment "B": M/WBE Letter Of Intent
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

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: _____

Bid Title: _____

Bid Amount: _____

M/WBE Participation Amount: \$ _____ M/WBE GOAL _____%

1. _____ 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
 - (a) _____ An Individual
 - (b) _____ A Partnership
 - (c) _____ A Corporation
 - (d) _____ A Joint Venture

2. _____ status is confirmed by M/WBE Directory made
(Name of Minority/Women Business Enterprise)
available through the City of Houston Office of Business Opportunity. Certificate No.: _____.

3. _____ and _____
(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 & Conditions of Attachment "C" attached hereto are incorporated into this Letter of Intent for all purposes.

(Signed -- Prime Contractor)	(Signed -- Minority/Women Business Enterprise)
(Title)	(Title)
(Date)	(Date)

EXHIBIT G – Attachment “C”: Certified M/WBE Subcontract Terms
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

Contractor shall insure that all subcontracts with M/WBE subcontractors and suppliers are clearly labeled **“THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT”** and contain the following terms:

1. _____ (M/WBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston’s Office of Business Opportunity (“the Director”).
2. _____ (M/WBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform 1) audits of the books and records of the subcontractor, and 2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.
3. Within five (5) business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.
4. As conclude by the parties to this subcontract, and as evidenced by their signatures hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 – “the Act”). Arbitration shall be conducted according to the following procedures:
 - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
 - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City’s contract with American Arbitration Association on file in the Office of the City’s Office of Business Opportunity.
 - c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
 - d. In the event the American Arbitration Association no longer administers Office of Business Opportunity arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

These provisions apply to goal oriented contracts. A goal oriented contract means any contract for the supply of goods or non-personal or non-professional services in excess of \$100,000.00 for which competitive bids are required by law; not within the scope of the MBE/WBE program of the United States Environmental Protection Agency on the United States Department of Transportation; and ;, which the City Purchasing Agent has determined to have significant M/WBE subcontracting potential in fields which there are an adequate number on known MBE’s and/or WBE’s to compete for City contract.

The M/WBE policy of the City of Houston will discussed during the pre-bid. For information assistance, and/or to receive a copy of the City’s Affirmative action policy and/or ordinance contact the Office of Business Opportunity at (713) 837- 9000, 611 Walker, 7th Floor, Houston, Texas 77002.

EXHIBIT F – Attachment “G”: Mayor’s Office of Business Opportunity M/WBE Utilization Report
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

PROJECT NAME & NUMBER: _____ AWARD DATE: _____

PRIME CONTRACTOR: _____ CONTRACT NO.: _____

ADDRESS: _____ CONTRACT AMOUNT: _____

LIAISON/PHONE NO.: _____ M/WBE GOAL: _____

M/WBE SUB/VENDOR NAME	DATE OF OBO CERTIFICATION	DATE OF SUBCONTRACT	SUBCONTRACT AMOUNT	% OF TOTAL CONTRACT	AMOUNT PAID TO DATE	% OF CONTRACT TO DATE
Use additional pages if needed. Submit by the 15th day of the following month. Provide support documentation on all revenues paid to end of the report period to: M/WBE's to reflect up/down variances on Contract amount.						
Office of Business Opportunity ATTN: Marsha Murray 832.393.0600 611 Walker, 7 th Floor Houston, Texas 77002						

**EXHIBIT H- RESOLUTION OF CONTRACTOR
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Document 00501
RESOLUTION OF CONTRACTOR

_____ (“Contractor”),
(Name of Contractor, e.g., “Biz. Inc.,” “Biz LLP”)

is a _____,
(Type of Organization, e.g.: Corporation, Limited Partnership, Limited Liability Partnership, Limited Liability Company, etc.)

which is bound by acts of _____,
(Name and Form of Governing Entity, e.g., “Biz Inc. Board of Directors”, “Bill Smith, GP”, etc.)
 (“Governing Entity”).

On the _____ day of _____, 20____, the Governing Entity resolved, in accordance with all documents, rules, and laws applicable to the Contractor, that

_____, is authorized to act as the
(Contractor’s Representative)

Contractor’s Representative in all business transactions (initial one) _____ conducted in the State of Texas OR _____ related to this Contract; and

The Governing Entity warrants that the above resolution (a) was entered into without dissent or reservation by the Governing Entity, (b) has not been rescinded or amended, and (c) is now in full force and effect; and

In authentication of the adoption of this resolution, I subscribe my name on this _____ day of _____, 20____.

(Authorized Signature for Governing Entity)

(Print or Type Name and Title of Authorized Signatory)

SWORN AND SUBSCRIBED before me on _____
Date

Notary Public in and for the State of Texas

My Commission Expires: _____
Expiration Date Print or Type Name of Notary Public

INSTRUCTIONS: Contractor must execute a Resolution of Contractor for each individual authorized to sign Contract Documents related to this Contract. Contractor may rescind Resolutions of Contractor through a written document in similar form.

END OF DOCUMENT

**EXHIBIT I – 00600 LIST OF PROPOSED SUBS
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Document 00600

LIST OF PROPOSED SUBCONTRACTORS AND SUPPLIERS

PROJECT NAME: _____ [Legal Project Name] _____ TOTAL DBE AWARD: \$ _____
 ORIG. CONTRACT PRICE: \$ _____ TOTAL MWSBE AWARD: \$ _____
 PROJECT NO.: _____ [WBS No.] _____ TOTAL HUB AWARD: \$ _____
 DATE OF REPORT: _____ TOTAL PDDBE AWARD: \$ _____

NAICS (6 digits)	SUBCONTRACTOR OR SUPPLIER (INCLUDE "MWSBE", "PDDBE", "DBE", OR "HUB" DESIGNATION) ²	ADDRESS	SCOPE OF WORK ³

- NOTES:**
1. RETURN FOR ALL PROJECTS AS REQUIRED IN DOCUMENT 00800 – SUPPLEMENTARY CONDITIONS. RETURN WITHIN THE SPECIFIED NUMBER OF DAYS AFTER RECEIPT OF NOTICE OF INTENT TO AWARD
 2. DESIGNATE FIRMS CERTIFIED BY THE CITY OFFICE OF BUSINESS OPPORTUNITY ON THIS FORM.
 3. DESCRIBE THE WORK TO BE PERFORMED, FOR WHICH THE FIRM IS CERTIFIED, SUCH AS "PAVING", "ELECTRICAL", ETC.
 4. CONTRACTOR SHALL EXECUTE CONTRACTS WITH APPROVED SUBCONTRACTORS AND SUPPLIERS WITHIN 30 DAYS AFTER THE DATE OF THE NOTICE TO PROCEED. COPIES OF CONTRACTS WITH DESIGNATED FIRMS MUST BE SENT TO THE OFFICE OF BUSINESS OPPORTUNITY.

SIGNATURE: _____ COMPANY NAME: _____
 NAME: _____ TITLE: _____
 (Type or Print)

00600-1
07-01-2013

**EXHIBIT I – 00600 LIST OF PROPOSED SUBS
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Document 00600

Continuation Page

PROJECT NAME: _____ [Legal Project Name]
DATE OF REPORT: _____
PROJECT NO.: _____ [WBS No.]

NAICS (6 digits)	SUBCONTRACTOR OR SUPPLIER (INCLUDE "MWSBE", "PDBE", "DBE", OR "HUB" DESIGNATION) ²	ADDRESS	SCOPE OF WORK ³

SIGNATURE: _____ COMPANY NAME: _____
NAME: _____ (Type or Print) TITLE: _____

END OF DOCUMENT

00600-1
07-01-2013

EXHIBIT J – 00601 DRUG POLICY COMPLIANCE AGREEMENT
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

Document 00601

DRUG POLICY COMPLIANCE AGREEMENT

I, _____, _____,
Name Title

of _____
Contractor

have authority to bind Contractor with respect to its Bid, Proposal, 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 Contractor is aware of and by the time the Contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a Notice to Proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and an HHS-certified drug-testing laboratory to perform drug tests.
3. Monitor and keep records of drug tests given and 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 Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the Contract with the City of Houston,

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations or documentation in compliance with the Mayor's Drug Policy 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.

Contractor

Title

Signature

Date

END OF DOCUMENT

**EXHIBIT K – 00606 CERTIFICATE OF NO SAFETY IMPACT POSITIONS
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Document 00606

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

BEFORE ME, the undersigned authority, on this day personally appeared

Affiant
who being by me duly sworn on his oath stated that he is _____
Title
of _____
Contractor

and that no employee safety impact positions, as defined in §5.17 of Executive Order
No. 1-31, will be involved in performing _____
Project

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

Affiant's Signature

SWORN AND SUBSCRIBED before me on this day of _____, 20__.

Notary Public in and for the State of TEXAS

Print or Type Notary Public Name

My Commission Expires: _____
Expiration Date

END OF DOCUMENT

EXHIBIT L – AFFIDAVIT OF INSURANCE
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

Document 00620

AFFIDAVIT OF INSURANCE

BEFORE ME, the undersigned authority, on this day personally appeared

_____, who
Affiant

being by me duly sworn on his oath stated that he is _____, of
Title

_____,
Contractor's Company Name

the Contractor named and referred to within the Contract documents; that he is fully competent and authorized to give this affidavit and that the attached original insurance certificate truly and accurately reflects the insurance coverage that is now available and will be available during the term of the Contract.

Affiant's Signature

SWORN AND SUBSCRIBED before me on _____
Date

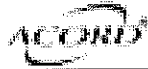
Notary Public in and for the State of TEXAS

Print or type Notary Public name

My Commission Expires: _____
Expiration Date

END OF DOCUMENT

EXHIBIT L - 00621 CERTIFICATE OF INSURANCE ACORD FORM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If ENDORSEMENT IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER:	INSURER	
	AGENT	
INSURED:	CLASSIFICATION	
	INDUSTRY	
	TYPE OF BUSINESS	
	NAICS CODE	
	DESCRIPTION OF BUSINESS	
	DESCRIPTION OF OPERATIONS	

COVERAGES **CERTIFICATE NUMBER:** **SECTION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

FORM NO.	TYPE OF INSURANCE	CLASS CODE	FORM NO.	FORM NO.	POLICY NUMBER	POLICY EFF. DATE	EXPIRES	AMOUNTS	LIMITS
1	PERSONAL LIABILITY								PERSONAL AUTO/BI
	COMBINED PERSONAL LIABILITY								PERSONAL AUTO/BI
	CLAIMS MADE								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
2	GENERAL LIABILITY								GENERAL LIABILITY
	CLAIMS MADE								GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
3	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
4	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
5	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
6	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
7	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
8	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
9	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
10	COMBINED GENERAL LIABILITY								COMBINED GENERAL LIABILITY
	CLAIMS MADE								COMBINED GENERAL LIABILITY
	PERSONAL AUTO/BI								PERSONAL AUTO/BI
	PERSONAL AUTO/BI								PERSONAL AUTO/BI

COVERAGES ARE SUBJECT TO ALL POLICY EXCLUSIONS, LIMITS AND CONDITIONS. THIS IS NOT A CONTRACT. THE POLICY IS THE CONTRACT. THE POLICY IS THE CONTRACT. THE POLICY IS THE CONTRACT.

CERTIFICATE HOLDER	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

**EXHIBIT M - 00630 CERTIFICATION OF COMPLIANCE WITH PAY OR PLAY PROGRAM (POP-2) PROGRAM
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Form POP-2



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



Contractor Name: _____ \$ _____
(Contractor/Subcontractor) (Amount of Contract)

Contractor Address: _____

Project No.: [GFA/CIP/MP/FILE No.] _____

Project Name: [Legal Project Name] _____

POP Liaison Name: _____

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 \$45 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 employer refuses the benefits and the employee's contribution to the premium is no more than \$45 per month.

Please initial which you checked:	Pay	Play	None
	<input type="checkbox"/>	<input 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 history.

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		
Covered Employees		
Non-Covered Employees		
Exempt Employees		

*Required

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

Contractor (Signature) _____ Date _____

Name and Title (Print or Type) _____

Document: 00630

OBO 7/3/2012

EXHIBIT O - 00632 CERTIFICATION BY PROFESSIONAL SERVICE PROVIDER
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES

Document 00632

CERTIFICATION BY PROPOSED MATERIAL SUPPLIERS,
LESSORS, AND PROFESSIONAL SERVICE PROVIDERS
REGARDING EQUAL EMPLOYMENT OPPORTUNITY

Company Name: _____ \$ _____
(Supplier, Lessor, Professional Service Provider) (Amount of Contract)

Company Address: _____

Company Telephone Number: _____ Fax: _____

E-mail Address: _____

Web Page/URL Address: _____

Company Tax Identification Number: _____

Project Name & No.: _____

Materials/Services Provided: _____

In accordance with Chapter 15 of the City of Houston's Code of Ordinances, Supplier/Lessor/Professional Service Provider represents to be an equal opportunity employer and agrees to abide by the terms of the Ordinance. This certification is required of all Suppliers/Lessors/Professional Service Providers providing goods or service to this project with agreements \$50,000 or more.

Yes No Supplier agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age.

Yes No Supplier agrees that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, or age.

Yes No Supplier will comply with all provisions of **Executive Order No. 11246** and 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 or Contract Compliance Officers for the purpose of investigation to ascertain and effect compliance with the City of Houston's Office of Business of Opportunity.

Yes No The Supplier shall file and cause their sub-tier contractors to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor or Contract Compliance Officers. Compliance reports filed at such times as directed shall contain information including, but not limited to, the practices, policies, programs, and employment policies.

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

COMPANY OFFICER (Signature)

DATE

NAME AND TITLE (Print or type)

END OF DOCUMENT

**EXHIBIT P – CERTIFICATE OF INTERESTED PARTIES FORM 1295
RFQ # HKE-OCAFCS-2020-010
ON-CALL AIRPORT FINANCIAL CONSULTING SERVICES**

Document 00636

Certificate of Interested Parties

In accordance with Texas Gov't Code §2252.908, the successful bidder must complete Form 1295, Certificate of Interested Parties. Form 1295 is available for downloading on the Texas Ethics Commission's (TEC) website: <https://www.ethics.state.tx.us/forms/1295.pdf>.

The successful bidder must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number.

No later than 30 days after the contract's effective date, the City will upload the successful bidder's completed Form 1295. The TEC will post the Contractor's completed Form 1295 within seven business days of receipt.

For your reference, Form 1295 is attached as part of this document.

END OF DOCUMENT

RESPONDENT CONTACT DIRECTORY

NAME	POSITION/TITLE	MAILING ADDRESS	PHONE NUMBER	FAX NUMBER	EMAIL ADDRESS

The purpose of the Respondent Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Respondent. This Respondent Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Respondent's team:

1. At least two individuals, one primary the other(s) secondary, authorized to represent the firm for purposes of this RFQ; and
2. Respondent Key Personnel (as appropriate) listed in the Submittal.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

ORDINANCE No. _____
CONTRACT No. _____

**AGREEMENT FOR PROFESIONAL ON CALL FINANCIAL CONSULTING SERVICES
FOR THE HOUSTON AIRPORT SYSTEM**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS AGREEMENT FOR PROFESSIONAL ON CALL FINANCIAL CONSULTING SERVICES FOR THE HOUSTON AIRPORT SYSTEM ("Agreement") is made on the date countersigned by the City Controller ("Effective Date") by and between the **CITY OF HOUSTON, TEXAS** ("City"), a Texas Home Rule City of the State of Texas principally situated in Harris County, and _____ ("Consultant"), a _____ corporation authorized to do business in Texas. City and Consultant are referred to in this Agreement individually as the "Party" or collectively as the "Parties".

The Parties agree as follows:

ARTICLE 1. PARTIES

1.1 ADDRESS

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

<u>City</u>	<u>Consultant</u>
Director, Houston Airport System City of Houston PO Box 60106 Houston, TX 77205-0106	

1.2 TABLE OF CONTENTS

1.2.1 This Agreement consists of the following articles and exhibits:

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

TABLE OF CONTENTS

	<u>Page No</u>
ARTICLE 1. PARTIES	1
1.1 Address	1
1.2 Table of Contents	1
1.3 Parts Incorporated	4
1.4 Controlling Parts	4
1.5 Signatures	5
ARTICLE 2. DEFINITIONS	6
ARTICLE 3. DUTIES OF CONSULTANT	11
3.1 Scope of Services	11
3.2 Coordinate Performance	13
3.3 Reports	13
3.4 Schedule of Performance	13
3.5 Subcontractors and Prompt Payment of Subcontractors	14
3.6 Consultant's Personnel	14
3.7 Reserved	15
3.8 INDEMNIFICATION	15
3.9 INTELLECTUAL PROPERTY RELEASE AND INDEMNIFICATION	16
3.10 SUBCONTRACTOR'S INDEMNITY	16
3.11 INDEMNIFICATION PROCEDURES	16
3.12 Insurance	17
3.13 Professional Standards	19
3.14 Acceptance an Rejection	19
3.15 Airport Customs Security Bond	20
3.16 Confidentiality	20
3.17 Sensitive Security Information	20
3.18 Licenses and Permits	20
3.19 Compliance with Laws	20
3.20 Compliance with Equal Opportunity Ordinance	19
3.21 Title VI Assurances	19
3.22 MWBE Compliance	21
3.23 Drug Abuse Detection and Deterrence	21
3.24 Additions and Deletions	22
3.25 Pay or Play	23
3.26 Anti-Boycott of Israel	23
3.27 Zero Tolerance for Human Trafficking and Related Activities	23
3.28 Use of Products	23
3.29 Certification Regarding Debarment Suspension and Ineligibility	23

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

3.30	Airport Badging and Security	24
3.31	Airport Symbol	24
3.32	Conflicts of Interest	24
ARTICLE 4. DUTIES OF CITY		24
4.1	Payment Terms	24
4.2	Taxes	26
4.3	Limit of Appropriation	26
4.4	Access to Site	27
4.5	Changes	28
4.6	Access to Data	29
4.7	No Quantity Guarantee	29
ARTICLE 5. TERM AND TERMINATION		30
5.1	Term	30
5.2	Termination for Convenience by the City	30
5.3	Termination for Cause by the City	30
5.4	Removal of Consultant-Owned Equipment and Materials	31
ARTICLE 6. MISCELLANEOUS		31
6.1	Independent Contractor	31
6.2	Force Majeure	31
6.3	Severability	32
6.4	Entire Agreement	32
6.5	Written Amendment	32
6.6	Applicable Laws	33
6.7	Notices	33
6.8	Captions	33
6.9	Non-Waiver	33
6.10	Inspections and Audits	34
6.11	Enforcement	34
6.12	Ambiguities	34
6.13	Survival	34
6.14	Publicity	34
6.15	Risk of Loss	34
6.16	Parties in Interest	34
6.17	Successors and Assigns	34
6.18	Business Structure and Assignments	35
6.19	Dispute Resolution	35
6.20	Remedies Cumulative	35
6.21	Consultant Debt	35
6.22	Environmental Laws	36
6.23	Preservation of Contracting Information	36
6.24	Use of Work Products	36

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

EXHIBITS	
A	Scope of Services
B	Fee Schedule
C	Key Personnel
D	Title VI: Non-Discrimination
E	Drug Policy Compliance Agreement
F	Contractor's Certification of No Safety Impact Positions
G	Drug Policy Compliance Declaration
H	Federal Mandatory Contract Provisions
I	Title VI List of Pertinent Non-Discrimination Acts and Authorities

1.3 PARTS INCORPORATED

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

1.4 CONTROLLING PARTS

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

[SIGNATURE PAGE FOLLOWS]

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

1.5 SIGNATURE

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

CONSULTANT

CITY OF HOUSTON, TEXAS

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

By: _____
Mayor

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

ATTEST/SEAL:
Signed by:

City Secretary

APPROVED:

APPROVED:

Director, Houston Airport System

Chief Procurement Officer

APPROVED AS TO FORM:

COUNTERSIGNED BY:

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

City Controller

DATE COUNTERSIGNED:

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

ARTICLE 2. DEFINITIONS

- 2.1 In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below:
- 2.1.1 "Accept" or "Acceptance" means the act of the Director by which the City assumes for itself, approval of specific services, as partial or complete performance of the Agreement.
 - 2.1.2 "Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Consultant. Any reference in this Agreement to "Contract" shall mean this Agreement.
 - 2.1.3 "Billing Rate(s)" means the all-inclusive rates set forth in **Exhibit B** for each job category of personnel providing services.
 - 2.1.3.1 Billing Rate includes salary cost, labor overhead, general and administrative overhead and profit. The charge for Consultant's services shall be computed separately for each employee who performs services by multiplying the number of hours the employee performs services by the hourly Billing Rate applicable to that employee's job category. From the Countersignature Date through the end of the Term, Consultant shall charge City the Billing Rates set forth in **Exhibit B**. If at any time, additional employee categories are required to accomplish services herein, the Director may authorize in writing the additional employee category which will automatically become a part of **Exhibit C** and the corresponding Billing Rate which will automatically become a part of **Exhibit B**.
 - 2.1.4 "Business Day(s)" mean(s) any day that is not a Saturday, Sunday, or City Holiday. In the event that any deadline set forth in this Agreement falls on a Saturday, Sunday, or City Holiday, the deadline shall automatically be extended to the next day that is not a Saturday, Sunday, or City Holiday.
 - 2.1.5 "Change Order" means either an increase or decrease in the Project Area, the Scope of Work, the locations of Disposal Site or other key elements of the projects.
 - 2.1.6 "City" is defined in the preamble of this Agreement and includes its successors and assigns.
 - 2.1.7 "City Attorney" means the City Attorney of the City or any person designated by the City Attorney to perform one or more of the duties of the City Attorney under this Agreement.
 - 2.1.8 "City Data" means all Documents and/or Information: (i) that the City discloses, supplies, or provides to Consultant under, pursuant to, or in connection with this Agreement, (ii) that Consultant obtains, receives, or collects under, pursuant to, or in connection with this Agreement, and/or (iii) collected, received, entered, stored, archived, retained, maintained, processed, or transmitted in, into, or by the Software. "City Data" does not include the Software, the Object Code, or the Source Code.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

- 2.1.9 "City Holiday" means any official City of Houston holiday as determined each year by the City Council.
- 2.1.10 "City Personnel" means all City employees, but not elected officials.
- 2.1.11 "Consultant" is defined in the preamble of this Agreement and includes its successors and assigns. Any reference in this Agreement to "Contractor" shall mean Consultant.
- 2.1.12 "CPO" means the City of Houston Chief Procurement Officer of the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.
- 2.1.13 "Day(s)" or "days" means calendar day, including weekends and legal holidays, whether capitalized or not, unless otherwise specifically provided. In the case of plural "days", those days will be consecutive.
- 2.1.14 "Deliverable(s)" mean(s) any services, products, goods, software, case management databases and applications, documents, or other tangible item provided by Consultant to the City in connection with this Agreement.
- 2.1.15 "Director" means the Director of the Houston Airport System, or any person designated by the Director to perform one or more of the Director's duties under this Agreement.
- 2.1.16 "Documents" means all original and non-identical copy of any written, typed, or printed matter, or electronically stored information, of any kind or description.
- 2.1.16.1 The word "documents" includes, but is not limited to, the following: agendas, analyses, audio or video recordings, bulletins, charts, circulars, communications (including any interoffice, social media, and other communications), computations, computer programs, copies, correspondence, data, databases, data compilations, data prototypes, designs, diagrams, diskettes, documents, drafts, drawings, electronic mail (email), electronically stored information, exhibits, facsimiles, forms, graphs, guides, images, information, inventions, items, letters, logs, manuals, maps, materials, memoranda, metadata, microfilm, minutes or meeting minutes, models, notes, notations, notebooks, operating manuals, original tracings of all drawings and plans, other graphic matter (however produced or reproduced), pamphlets, photographs (including any digital or film photographs), plans, printouts, policies, procedures, records, recordings (including any audio, video, digital, film, tape, and other recordings), reports, social media communications, software, specifications, tabulations, telegrams, underlying data, works, worksheets, work products, writings, and any other writings or recordings of any type or nature (and any revisions, modifications, or improvements to them).
- 2.1.17 "Effective Date" means the date the City Controller countersigns the signature page of this Agreement and the Agreement becomes effective and binding.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

- 2.1.18 "Fixed Lump Sum" means the method of payment based upon Consultant's estimate of allowable costs such as salary, overhead, and Reimbursable Expenses, plus a reasonable margin of profit, all expressed as a single lump sum. A lump sum proposal shall be accompanied by the Consultant's estimate. The estimate should detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; Reimbursable Costs; and profit.
- 2.1.19 "HAS" means the City of Houston Airport System, the City of Houston's department of aviation.
- 2.1.20 "Holiday" means any day that has been designated as such by City Council.
- 2.1.21 "Include" and "including", and words of similar import, shall be deemed to be followed by the words "without limitation".
- 2.1.22 "Letter of Authorization" or "LOA" means the document the Director sends to the Consultant authorizing certain services to be performed in accordance with this Agreement.
- 2.1.23 "Notice to Proceed" means a written communication from the Director to Consultant instructing Consultant to begin performance under this Agreement.
- 2.1.24 "Party" or "Parties" means City and Consultant who are bound by this Agreement, individually or collectively as indicated in the context by which it appears.
- 2.1.25 "Project" includes all labor, materials equipment and vehicles necessary to complete the services described in Exhibit A of this Agreement.
- 2.1.26 "Project" means the services to be performed as authorized by individual Letters of Authorization in accordance with the Agreement. The work described in each Letter of Authorization is an individual Project.
- 2.1.27 "Reimbursable Expenses" means:
- 2.1.27.1 identifiable communication expenses including reasonable costs of copying and printing (other than for the Consultant's internal use) postage, message, and delivery services other than for general correspondence, long-distance telephone charges incurred by the Consultant in the course of its performance under this Agreement;
 - 2.1.27.2 upon prior written approval of the Director, the ordinary and reasonable costs of travel to, from and within the City of Houston by Consultant's employees or subcontractors, not to exceed the amount established under the City's then current travel reimbursement policy for its employees, including automobile mileage reimbursement, common carrier coach or economy fares, ground transportation expenses, and, for overnight trips, the cost of lodging and meals if such travel is reasonably necessary to accomplish a task directly related to the Project, and reservations are made as far in advance as feasible;

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

- 2.1.27.3 sales tax related to the Consultant's services under this Agreement which it is legally required to pay; and
- 2.1.27.4 as set forth in **Exhibit B**, if any.
- 2.1.27.5 It shall be the Consultant's responsibility to inform itself of the City's travel reimbursement policies.
- 2.1.28 "Services" means all services required by or reasonably inferable from the Agreement and Exhibit A including all labor, materials, tools, supplies, equipment, transportation, mobilization, insurance, subcontracts, supervision, management, reports, incidentals, quality control, and other items necessary or incidental by Consultant to fulfilling Consultant's obligations.
- 2.1.29 "Staffing Schedule" means Consultant's organizational structure and staffing assignments for key positions on the Projects as shown in **Exhibit C**.
- 2.1.30 "Subcontractor" means any individual, partnership, firm, corporation, or joint venture who contracts with the Consultant to furnish services, labor, equipment, and/or materials under this Agreement.
- 2.1.31 "Subcontract Cost" means the ordinary and reasonable cost of subcontracts made by the Consultant and approved in advance and in writing by the Director for services rendered under this Agreement plus a fixed payment not to exceed % of Subcontract Cost to compensate Consultant for administering the subcontract, assumption of responsibility for the Subcontractor's services, and performance risk related to the subcontracts. The Subcontract Cost shall be calculated on an LOA basis and shall not be subject to adjustment unless the LOA's scope of work, with respect to subcontracted work, changes. Invoices for Subcontract Cost must be accompanied by appropriate documentation detailing the Subcontractor's performance contributions for the period of time being invoiced. Any additional documentation required by the Director also shall be provided by Consultant. Consultant shall require Subcontractors to provide appropriate documentation of costs and expenses incurred in the performance of their services performed in furtherance of an LOA, including but not limited to, a copy of the actual invoice from Subcontractor to Consultant. Consultant is responsible for the performance and work product of subcontractors.
- 2.1.32 "Term" means the entire period during which this Agreement is in effect, starting on the Effective Date and continuing through the final date of termination or expiration of this Agreement, including any renewals or extensions.
- 2.1.33 "Writing" or "written" shall mean a written communication from one Party to the other, including an electronic communication or e-mail.
- 2.1.34 When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural.
- 2.1.35 The word "*shall*" is always mandatory and not merely permissive.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

ARTICLE 3. DUTIES OF CONSULTANT

3.1 SCOPE OF SERVICES

3.1.1. Services in General

3.1.2. For and in consideration of the payments specified in this Agreement, Consultant shall provide all labor, material, and supervision necessary to perform the services set out in this Agreement, **Exhibit A**, and as specifically described in individual LOAs. Time is of the essence in the performance of this Agreement.

3.1.3 Consultant shall perform the following services:

3.1.3.1. Provide prompt and efficient consulting services as may be required in an LOA for each Project;

3.1.3.1.2. Coordinate its performance with the Director, City consultants, and all governmental entities having jurisdiction over the Project;

3.1.3.1.3. Make periodic written reports, meeting notes, and recommendations to the Director with respect to conditions, transactions, situations, or circumstances encountered by the Consultant relating to its services under this Agreement;

3.1.3.1.4. Attend meetings with representatives from the City, local, state and federal agencies, and contractors, if required by the Director;

3.1.3.1.5. If requested, provide a copy of Documents prepared by it or made available to it under this Agreement;

3.1.3.1.6. Meet the standards prevailing in its profession for services performed for similar sized airports in the United States;

3.1.3.1.7. Verify the professional quality, technical accuracy and coordination of all Documents and services; and

3.1.3.1.8. Correct or revise all errors and deficiencies in Documents and services as directed by the Director. No compensation will be paid for corrections or revisions resulting from errors or omissions made by Consultant.

3.1.3.2. In response to Letters of Authorization to be issued periodically by the Director, Consultant shall perform consulting services in accordance with this Agreement and each LOA. The extent of each assigned Project will be defined in each LOA in accordance with this Agreement after negotiations with Consultant have been completed for each LOA.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

3.1.3.3. The method of payment may be either:

3.1.3.2.1. An hourly based agreement which includes the Billing Rate, as set forth in **Exhibit B**, multiplied by the hours that each employee, listed in **Exhibit C**, worked on the particular Project plus Reimbursable Expenses plus Subcontract Cost or

3.1.3.2.2. A Fixed Lump Sum that does not exceed an estimate of the total of the payment categories set forth in Section 3.1.3.2.1 when added together.

3.1.3.3. Consultant shall perform diligently all assigned Project tasks and meet the Project delivery schedules of the Project Schedule Chart established in each LOA. Consultant shall not begin work until it receives an LOA signed by the Director.

3.1.3.4. Each LOA must set forth the following:

3.1.3.4.1. Contract number and Consultant's name, address, and telephone number;

3.1.3.4.2. LOA number and date;

3.1.3.4.3. Identity of the Consultants key personnel assigned to each LOA and Subcontractors who will perform services (after having secured the Director's written approval of such Subcontractor(s));

3.1.3.4.4. Scope of services specifically identifying the services to be performed and the specific deliverables for the LOA (e.g., Project Definition Document, Forecast Report, PowerPoint Presentation, etc.);

3.1.3.4.5. Time of performance (including Project Schedule Chart);

3.1.3.4.6. Place of performance;

3.1.3.4.7. HAS Project Manager;

3.1.3.4.8. A breakout to include identification, by line item, of the required position classifications set forth in **Exhibit C** to perform the services, the estimated hours, and the fixed hourly Billing Rate as set forth in **Exhibit B** and as defined in this Agreement, if an hourly based agreement;

3.1.3.4.9. Identification of the estimated amount of services to be performed by M/WBEs, if applicable;

3.1.3.4.10. Method of payment, either a Fixed Lump Sum agreement or an hourly-based agreement with a total not-to-exceed amount;

3.1.3.4.11. Balance of funds remaining in the Agreement;

3.1.3.4.12. A breakout of all Reimbursable Expenses, by line item, to include the estimated quantity of the item required, the unit cost, and an extended "not to exceed" dollar amount;

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

- 3.1.3.4.13. Frequency of payment, either monthly or upon completion of a Project;
 - 3.1.3.4.14. Submittal requirements, including schedule and deliverables, (i.e., reports, analyses statements, etc.); and
 - 3.1.3.4.15. Any other information necessary to identify and perform the services or as otherwise may be required by the Director.
- 3.1.3.5. LOA's shall continue to be in effect and performed by Consultant until such time as all requirements have been met and a written acceptance of the Project performed has been made by the Director or until Consultant receives written notification from the Director to discontinue services on a particular Project.
- 3.1.3.6 Upon written request by Consultant, the Director, in his sole discretion, may grant extensions of time for completion of services for delays caused by the City or other agencies with which the work must be coordinated and for other reasonable causes over which the Consultant has no control. The Director's approval of the extension of time must be in writing. Each LOA continues in effect until all requirements have been met and a written Acceptance of the services performed has been made by Director or until the Consultant receives written notification from the Director to discontinue services.
- 3.1.3.7. LOAs may be amended by the Director in the same manner as they are issued.
- 3.1.3.8. A LOA may not alter or amend the terms and conditions set forth in this Agreement.
- 3.1.3.9 The Director may request Consultant to engage subcontractors with specialized skills or specific knowledge. Consultant shall identify subcontractors demonstrating successful work history in the requested area to the satisfaction of the Director. Upon the Director's approval, Consultant shall be responsible for choosing and contracting with each specialized subcontractor. All specialized subcontractors must make Good Faith Efforts to meet the subcontracting goal set out in this Agreement.

3.2 COORDINATE PERFORMANCE

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

3.3 REPORTS

- 3.3.1 Consultant shall submit, at a minimum, to the Director, quarterly reports of progress on the project, including status of activity and the status of information requests made by the Director to the Consultant .

3.4 SCHEDULE OF PERFORMANCE

- 3.4.1 *Time of Performance*

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

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

3.4.2 *Time Extensions*

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

3.5 SUBCONTRACTORS AND PROMPT PAYMENT OF SUBCONTRACTORS

3.5.1 Consultant shall not subcontract any part of its performance under this Agreement without the prior written approval of the Director. In requesting such approval, Consultant must provide the Director with the name of the proposed subcontractor, the nature of the services to be performed, and a copy of the proposed subcontract which, at a minimum, (i) includes the same information required of Consultant in this Agreement, inclusive of all sections therein, including, but not limited to **Section 3.6.1** and (ii) restricts the subcontractor from adding any mark-up to its reimbursable expenses and its all-inclusive billing rates. If such approval is given, Consultant shall be responsible for services performed by subcontractors to the same extent as if the services were performed by the Consultant.

3.5.2 In accordance with the Texas Prompt Payment Act, Consultant shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Consultant's employees. **CONSULTANT SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONSULTANT'S FAILURE TO MAKE THESE PAYMENTS REGARDLESS OF WHETHER THE NON-PAYMENT IS CAUSED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), GROSS NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL FAULT OF THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES.**

3.6 CONSULTANT'S PERSONNEL

3.6.1 Consultant shall perform services under this Agreement employing the people listed in its staffing schedule provided in **Exhibit "C"**. Consultant may revise its staffing schedule only after obtaining the prior written approval of the Director. Upon the Director's written approval, the revised Staffing Schedule shall replace the existing **Exhibit "C"** without the need of an amendment. The revised Staffing Schedule must include the following information for each professional-level employee proposed for assignment under this Agreement:

- 3.6.1.1 Name of employee;
- 3.6.1.2 Description of tasks to be performed;
- 3.6.1.3 Applicable registration;
- 3.6.1.4 Principal office of employment;
- 3.6.1.5 Summary of relevant experience; and
- 3.6.1.6 Date and expected duration of assignment.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

- 3.6.2 During the existence of this Agreement, Consultant must obtain, maintain, and pay for all licenses, permits, and certificates, including all professional licenses required by any statute, ordinance, rule or regulation. If Consultant does not maintain these professional licenses, the Director may immediately terminate this Agreement. The Consultant must immediately notify the Director of any suspension, revocation, or other negative action against his or her license.
- 3.6.3 The Director may require the removal of any employee of the Consultant providing services under this Agreement whose work product in the Director's sole discretion is unacceptable.

3.7 RESERVED

3.8 INDEMNIFICATION

3.8.1 INDEMNIFICATION – GENERAL

3.8.1.1 TO THE EXTENT PERMITTED BY TEXAS LOCAL GOVERNMENT CODE § 271.904,CONSULTANT AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

3.8.1.1.1 CONSULTANT 'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONSULTANTS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 3.8.1.1.-3.8.1.3., "CONSULTANT") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

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

3.8.1.1.3 CONSULTANT'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONSULTANT IS IMMUNE FROM LIABILITY OR NOT.

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

SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE

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

3.9 INTELLECTUAL PROPERTY RELEASE AND INDEMNIFICATION

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

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

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

3.10 SUBCONTRACTOR'S INDEMNITY

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

3.11 INDEMNIFICATION PROCEDURES

3.11.1. *Notice of Claims*

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

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

3.11.1.1.2 the basis on which indemnification may be due, and

3.11.1.1.3 the anticipated amount of the indemnified loss.

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

3.11.2. *Defense of Claims*

3.11.2.1. Assumption of Defense. Consultant may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney. Consultant shall then control the defense and any negotiations to settle the claim, subject to the City Attorney's consent or agreement to the settlement, which consent, or agreement shall not unreasonably be withheld. Within 10 days after receiving written notice of the indemnification request, Consultant must advise the City as to whether or not it will defend the claim. If Consultant does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

3.11.2.2. Continued Participation. If Consultant elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations.

3.12 INSURANCE

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

COVERAGE	LIMIT OF LIABILITY
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	<ul style="list-style-type: none">• Bodily Injury by Accident \$500,000 (each accident)• Bodily Injury by Disease \$500,000 (policy limit)• Bodily Injury by Disease \$500,000 (each employee)

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos
Professional Liability Coverage	\$1,000,000 per occurrence; \$2,000,000 aggregate
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability and Automobile	\$1,000,000.00
Aggregate Limits are per 12-month policy period unless otherwise indicated.	

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

3.12.3. *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 noncompliance with the terms of this Section, or (b) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall (i) have a Certificate of Authority to transact insurance business in Texas, or (ii) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

completion, or a project liability policy for the Project covered by this Agreement with a duration of two years after substantial completion.

- 3.12.5. *Notice.* **CONSULTANT 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, Consultant shall provide other suitable policies in order to maintain the required coverage. If Consultant does not comply with this requirement, the Director, at his sole discretion, may immediately suspend Consultant from any further performance under this Agreement and begin procedures to terminate for default.

3.13 PROFESSIONAL STANDARDS

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

3.14 ACCEPTANCE AND REJECTION

- 3.14.1. Consultant shall not be entitled to payment and the City shall have no duty to pay Consultant unless the Director has Accepted the Services and other Deliverables as set forth in **Exhibit "A"**.
- 3.14.2 Consultant shall provide written notice to the Director upon completion and/or delivery of the Services and other Deliverables as set forth in Exhibit A. The Director shall Accept in writing such Services and other Deliverables on or before the 20th Business Day after the date of receipt of such notice by the Director unless, prior to such 20th Business Day, the Director sends written notice to Consultant stating the reason(s) why any Services and other Deliverables have been rejected and not Accepted.
- 3.14.3 Notwithstanding anything to the contrary in Exhibit A or elsewhere, the Director may, in his sole discretion, approve in writing a partial Acceptance of the Services and other Deliverables set forth in **Exhibit "A"**.
- 3.14.4. If the Director rejects any Services or other Deliverables, Consultant shall have 10 Business Days after the Director sends written notice of rejection to correct or otherwise replace such Services or other Deliverables as necessary to conform to this Agreement, at no additional cost to the City. Consultant shall provide written notice to the Director upon completion of any such correction(s) or replacement(s) after the receipt of which the Director shall continue to either Accept or reject (as provided under this Section) and Consultant shall continue to make any necessary correction(s) or replacement(s) (as provided under this Section) until the Director Accepts in writing all previously rejected Services or other Deliverables.
- 3.14.5. Notwithstanding anything to the contrary herein or elsewhere, if the Director does not Accept any Services or other Deliverables after one or more attempted

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

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

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

3.15 AIRPORT CUSTOMS SECURITY BOND

3.15.1 In accordance with Title 19 of the Code of Federal Regulations, Part 113, the Consultant shall obtain an Airport Customs Security Bond in order to have access to the Federal Inspection Station (FIS), and One Stop Cargo and Fumigation Facility at George Bush Intercontinental Airport (IAH) and William P. Hobby Airport (HOU).

3.16 CONFIDENTIALITY

3.16.1 Consultant, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, "the Information") that they receive, or to which they have access, in strictest confidence. Consultant, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Consultant shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

3.17 SENSITIVE SECURITY INFORMATION

3.17.1 Consultant shall take all appropriate measures in accordance with 49 C.F.R. 1520 and other applicable laws to protect all proprietary, privileged, confidential, or otherwise Sensitive Security Information ("SSI") that may come into Consultant's possession as a result of this Agreement.

3.18 LICENSES AND PERMITS

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

3.19 COMPLIANCE WITH LAWS

3.19.1 Consultant and its Subcontractors shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances in their

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

performance under this Agreement including, but not limited to the City's Wage Theft Ordinance set out in Section 15-61 et seq. of the City Code of Ordinances.

3.20 COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE

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

3.21 TITLE VI ASSURANCES

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

3.22 MWBE COMPLIANCE

3.22.1. In its performance under this Agreement, Consultant shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Consultant shall make good faith efforts to award subcontracts or supply agreements in at least 7% of the value of this Agreement to MWBEs. Consultant acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunities ("OBO") and will comply with them.

3.22.2. Consultant shall maintain records showing:

3.22.2.1. Subcontracts and supply agreements with Minority Business Enterprises,

3.22.2.2. Subcontracts and supply agreements with Women's Business Enterprises, and

3.22.2.3. Specific efforts to identify and award subcontracts and supply agreements to MWBEs.

3.22.3. Consultant shall submit periodic reports of its efforts under this Section to the Director of the Office of Business Opportunity in the form and at the times he or she prescribes.

3.22.4. Consultant shall require written subcontracts with all MWBE subcontractors and suppliers.

3.23 DRUG ABUSE DETECTION AND DETERRENCE

3.23.1. 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 Consultant while on City Premises is prohibited. Consultant shall

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

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

- 3.23.2. Before the City signs this Agreement, Consultant shall file with the City Contract Compliance Officer for Drug Testing ("CCODT"):
- 3.23.2.1. a copy of its drug-free workplace policy,
 - 3.23.2.2. the Drug Policy Compliance Agreement substantially in the form set forth in **Exhibit "E"**, together with a written designation of all safety impact positions and,
 - 3.23.2.3. if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in **Exhibit "F"**.
- 3.23.3. If Consultant files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six months during the performance of this Agreement (or on completion of this Agreement if performance is less than six months), a Drug Policy Compliance Declaration in a form substantially similar to **Exhibit "G"**. Consultant 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 Agreement. The first six-month period begins to run on the date the City issues its Notice to Proceed or, if no Notice to Proceed is issued, on the first day Consultant begins work under this Agreement.
- 3.23.4. Consultant also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Consultant's employee work force.
- 3.23.5. Consultant shall require that its subcontractors comply with the Executive Order, and Consultant shall secure and maintain the required documents for City inspection.

3.24 ADDITIONS AND DELETIONS

- 3.24.1. Subject to the allocation of funds, the Director or CPO may add similar supplies, services, or locations, within the scope of this Agreement, to the list of supplies, services, or locations to be performed or provided by giving written notification to Consultant. For purposes of this Section, the "Effective Date" means the date specified in the notification from the Director or CPO. As of the Effective Date, each item added is subject to this Agreement, as if it had originally been a part, but the charge for each item starts to accrue only on the Effective Date.
- 3.24.2. If a deliverable or service that is subject to this Agreement is deleted, lost, stolen, destroyed, damaged, sold, replaced, or otherwise disposed of, the Director or CPO may exclude it from the operation of this Agreement by notifying Consultant in writing. The notice takes effect immediately on its receipt by Consultant. More

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

than one notice may be given. When a notice is received, Consultant shall delete the charge for the excluded deliverable or service from the sum(s) otherwise due under this Agreement.

3.25 PAY OR PLAY

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

3.26 ANTI-BOYCOTT OF ISRAEL

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

3.27 ZERO TOLERANCE FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES

3.27.1. The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all purposes. Consultant 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. Consultant shall notify the City's Chief Procurement Officer, City Attorney, and the Director of any information regarding possible violation by the Consultant or its subcontractors providing services or goods under this Agreement.

3.28 USE OF PRODUCTS

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

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

3.29 CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY AND VOLUNTARY EXCLUSION

3.29.1 In accordance with 49 CFR Part 29 the Consultant certifies by acceptance of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that it will include this clause without modification in all lower tier transactions,

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

solicitations, proposals, contracts, and subcontracts.

3.30 AIRPORT BADGING AND SECURITY

3.30.1 Each employee of Consultant and its subcontractors must wear a badge issued by the Houston Airport System at all times while on airport property. Consultant shall be responsible for the cost of the initial badges and any replacements thereof.

3.30.2 The Transportation Security Administration may assess fines and/or penalties for Consultant's non-compliance with the provisions of 49 CFR Part 1542 entitled "Airport Security," as amended from time to time, or by agencies for noncompliance with laws or regulations applicable to Consultant's operations. Within 10 days after receiving written notice from the Director stating the amount of any fine or penalty, Consultant shall reimburse the City for any fine or penalty assessed against the City because of Consultant's non-compliance with 49 CFR Part 1542 or other applicable laws or regulations.

3.31 AIRPORT SYMBOL

3.31.1 Consultant shall have no right to use the trademarks, symbols, trade names or name of the City, either directly or indirectly, in connection with any production, promotion service or publication without the prior written discretionary consent of the Director.

3.32 CONFLICTS OF INTEREST

3.32.1 If an actual or potential conflict arises between the City's interests and the interests of other client(s) Consultant represents, Consultant shall immediately notify the Director in writing. The City Controller shall issue a letter of consent or non-consent to Consultant's representation, potential or otherwise, of the other client(s) within 10 Business Days after receipt of Consultant's notice. If the City Controller issues a non-consent letter, Consultant shall immediately terminate its representation, potential or otherwise, of the other client(s) whose interests are or may be in conflict with those of the City.

ARTICLE 4. DUTIES OF CITY

4.1 PAYMENT TERMS

4.1.1. Fees: In General

4.1.1.1. The City shall pay fees to the Consultant as specified herein for all services rendered by the Consultant in accordance with the terms and conditions of this Agreement, but subject to **Section 4.3** relating to appropriations made by the City.

4.1.1.2. If the Consultant receives payment from the City for work performed by any Subcontractor or for materials provided by any supplier, and the Consultant withholds payment to the Subcontractor or supplier on account

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

of a deficiency in the quality or quantity of the work or materials, the City may withhold a corresponding amount from any pending or future payments to the Consultant until the next regular payment to the Consultant occurring after the City receives reasonable documentation that the deficiency has been remedied.

4.1.2. Fees: Method of Payment

4.1.2.1. The Consultant shall perform services only in response to an LOA signed by the Director. The method of payment will be specified in each LOA and may be either:

4.1.2.1.1. an hourly based agreement which includes the Billing Rates set forth in **Exhibit B** multiplied by hours worked by each employee set forth in **Exhibit C** who performs work for the Project plus Reimbursable Expenses and Subcontract Cost, or

4.1.2.1.2. a Fixed Lump Sum that does not exceed an estimate of the total of all the payment categories set forth in **Section 4.1.2.1.1.** when added together.

4.1.2.2. The City shall make partial payment of the fees for lump sum services on the basis of monthly invoices submitted by the Consultant and approved by the Director. The invoices based on lump sum services must show the following:

4.1.2.2.1. the percentage of the total services completed for each LOA in the preceding month;

4.1.2.2.2. a summary of the services performed for each LOA during the period covered by the invoice;

4.1.2.2.3. the amount due for the services, and

4.1.2.2.4. any other information required by Director.

4.1.2.2.5. The amount of partial payment due for services performed shall be a percentage of the Fixed Lump Sum fee equal to the percentage of services performed on each LOA during the period covered by the invoice.

4.1.2.3. The City shall make partial payment of the fees on the basis on monthly invoices submitted by Consultant and approved by the Director. The invoices for services rendered on an hourly-based agreement must include the following:

4.1.2.3.1. A detailed description of the work performed.

4.1.2.3.2. Itemized Reimbursable Expenses.

4.1.2.3.3. Subcontract Cost, including a copy of the Subcontractor's actual invoice and supporting documentation for itemized Reimbursable Expenses in amounts not to exceed the cost schedule set forth in **Exhibit B.** If requested by the Director, additional supporting documentation will be provided by Subcontractor.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

4.1.2.3.4. After the Consultant has successfully completed the performance to the Director's satisfaction of all required services for an LOA, the City shall pay the Consultant the total amount owed for the Project less any amounts paid under the monthly invoices.

4.1.2.4. All invoices must be approved by the Director. The invoices will be paid within 30 days after receipt and approval by the Director. All payments must be made by electronic transfer or check payable to the Consultant. Payments will be electronically transferred to the banking institution and account specified by the Consultant or mailed to the address specified in **Section 1.1**. The City will not unreasonably delay or withhold payment or approval of any invoice. The Director shall approve or disapprove the Consultant's invoices within 15 days after receiving them. Neither partial payments made nor approval of invoices or services by the Director constitute final acceptance or approval of the Consultant's services to which the partial payment or approval relates. The payments do not relieve the Consultant of any of its obligations under this Agreement. The Consultant shall send all invoices to the address listed in **Section 1.1** or has.accountspayable@houstontx.gov.

4.1.2.4.1. With each monthly invoice and for each active LOA, the Consultant shall submit a copy of the updated Project Schedule Chart, a monthly status report, including but not limited to, a narrative of the services performed in the preceding month, and a list of the planned activities for the following month.

4.1.2.5. Fees: Disputes

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

4.2 TAXES

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

4.3 LIMIT OF APPROPRIATION

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

4.3.2. Consultant 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 therefor appropriated by the City Council and further recognizes that only \$ _____ has been appropriated by City Council to pay the cost of all services authorized by LOAs under each Agreement awarded. (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

4.3.2.1. The City has not allocated supplemental funds or made a Supplemental Application for this Agreement unless the City has issued to the Consultant a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS
By the signature below, the City Controller certifies that, upon the request of the responsible director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation. \$ _____

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

4.3.2.3. If the appropriation for all services authorized by LOAs is insufficient to compensate the Consultant for services in accordance with the payment provisions under the Contract, the Consultant may suspend its Services at such time as the total appropriation for services is expended, but shall resume such Services, if and when authorized by the Director as provided elsewhere herein, upon transfer of funds by the Director or appropriation of additional funds by the City Council for Services in General.

4.4 ACCESS TO SITE

4.4.1 Consultant may enter and leave the premises at all reasonable times without charge. Consultant and its employees may use the common areas and roadways of the premises where it is to perform the services together with all facilities, equipment, improvements, and services provided in connection with the

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

premises for common use. This excludes parking for Consultant's personnel. Consultant shall repair any damage caused by it or its employees as a result of its use of the common areas

4.5 CHANGES

4.5.1. At any time during the Agreement Term, the Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement.

Consultant shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work. Any Change to the scope of activities identified in **Exhibit "A"** shall be mutually agreed to prior to the issuance of a Change Order.

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

CHANGE ORDER	
TO:	[Name of Consultant]
FROM:	City of Houston, Texas (the "City")
DATE:	[Date of Notice]
SUBJECT:	Change Order under the Agreement between the City and [Name of Consultant] countersigned by the City Controller on [Date of countersignature of the Contract]
Subject to all terms and conditions of the Contract, the City requests that Consultant provide the following:	
[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]	
Signed:	
[Signature of Director]	

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

4.5.3.1. Council expressly authorizes the Director to approve a Change Orders up to \$50,000. A Change Order of more than \$50,000 must be approved by the City Council.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

4.5.3.2. If a Change Order describes items that Consultant is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Consultant.

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

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

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

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

4.6 ACCESS TO DATA

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

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

4.6.3. For any raw data created, assembled, used, maintained, collected, or stored by the Consultant for or on behalf of the City, Consultant shall provide the City either the raw data itself or the ability to extract the raw data in a format mutually agreed upon by both parties at no additional cost to the City.

4.7 NO QUANTITY GUARANTEE

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

4.7.2. The City makes no express or implied representations, warranties, or guarantees whatsoever, that any particular quantity, type, task area, or dollar amount of

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

services will be procured or purchased from Consultant through this Agreement or any Scope of Services 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 Consultant may ultimately derive from or through this Agreement or any Scope of Services or Change Order.

ARTICLE 5. TERM AND TERMINATION

5.1 TERM

5.1.1. This Agreement is effective on the date the City Controller countersigns this Agreement and remains in effect for five (5) years from the Effective Date, unless sooner terminated under the terms of this Agreement. After expiration of this Agreement, no additional LOAs may be issued; however, for any LOA issued prior to the expiration of the Agreement, Consultant shall complete the work unless otherwise notified by the Director in writing.

5.2 TERMINATION FOR CONVENIENCE BY THE CITY

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

5.2.2 On receiving the notice, Consultant shall, unless the notice directs otherwise, immediately discontinue all Services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Consultant shall submit a final invoice marked "FINAL" showing in detail the Services performed under this Agreement up to the termination date.

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

5.3 TERMINATION FOR CAUSE BY THE CITY

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

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

- 5.3.1.2 Consultant becomes insolvent;
 - 5.3.1.3 All or a substantial part of Consultant's assets are assigned for the benefit of its creditors; or
 - 5.3.1.4 A receiver or trustee is appointed for Consultant.
- 5.3.2. If a default occurs, the Director will deliver a written notice to Consultant describing the default and the termination date. The Director, at his sole option, may extend the termination date to a later date. If the Director allows Consultant to cure the default and Consultant does so to the Director's satisfaction before the termination date, then the termination is ineffective. If Consultant does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date and pay Consultant for all Services performed, if any, through such date.
- 5.3.3 To effect final termination, the Director must notify Consultant in writing. After receiving the notice, Consultant shall, unless the notice directs otherwise, immediately discontinue all Services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

5.4 REMOVAL OF CONSULTANT -OWNED EQUIPMENT AND MATERIALS

- 5.4.1 Upon expiration or termination of this Agreement, Consultant is permitted 10 days within which to remove Consultant -owned material and equipment from the City's premises. The City shall make such material and equipment readily available to Consultant. The time period may be extended upon approval by the Director. The Director reserves the right to deny any extension of time.

ARTICLE 6. MISCELLANEOUS

6.1 INDEPENDENT CONTRACTOR

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

6.2 FORCE MAJEURE

- 6.2.1 Timely performance by both Parties is essential to this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Consultant. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a Party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Consultant, riots, court orders, and the acts of superior governmental or military authority, and which the affected Party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates,

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Consultant to any reimbursement of expenses or any other payment whatsoever.

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

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

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

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

6.2.4. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

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

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

6.3 SEVERABILITY

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

6.4 ENTIRE AGREEMENT

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

6.5 WRITTEN AMENDMENT

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

of an ordinance adopted by the City Council) and Consultant. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.6 APPLICABLE LAWS

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

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

6.7 NOTICES

6.7.1. Unless otherwise stated in this Agreement, all notices to either Party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the Party to whom the notice is given at its address set out in Section 1.1. of this Agreement or other address, the receiving Party has designated previously by proper notice to the sending Party. Postage or delivery charges must be paid by the Party giving the notice.

6.7.2. Any notice, demand for payment or communication required or permitted to be given to Consultant by the City under the provisions of this Agreement with respect to correctable and non-correctable contract conditions, violations of this Agreement and assessment(s) of liquidated damages in accordance with **Exhibit "A"** of this Agreement shall be deemed to have been effectively delivered or given to Consultant and received by Consultant on the date emailed, faxed or mailed to Consultant's Project Manager.

6.8 CAPTIONS

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

6.9 NON-WAIVER

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

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

6.10 INSPECTIONS AND AUDITS

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

6.11 ENFORCEMENT

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

6.12 AMBIGUITIES

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

6.13 SURVIVAL

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

6.14 PUBLICITY

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

6.15 RISK OF LOSS

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

6.16 PARTIES IN INTEREST

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

6.17 SUCCESSORS AND ASSIGNS

6.17.1. This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in **Section 6.18**. This Agreement does not create any personal liability on the part of any officer or agent of the City.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

6.18 BUSINESS STRUCTURE AND ASSIGNMENTS

6.18.1. Consultant shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Consultant shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

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

6.19 DISPUTE RESOLUTION

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

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

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

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

6.20 REMEDIES CUMULATIVE

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

6.21 CONSULTANT DEBT

6.21.1. IF CONSULTANT, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

AWARE THAT CONSULTANT HAS INCURRED A DEBT, THE CITY CONTROLLER SHALL IMMEDIATELY NOTIFY CONSULTANT IN WRITING. IF CONSULTANT DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONSULTANT UNDER THIS AGREEMENT, AND CONSULTANT WAIVES ANY RECOURSE THEREFOR. CONSULTANT SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

6.22 ENVIRONMENTAL LAWS

6.22.1. Consultant shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any other governmental agency with the authority to promulgate environmental rules and regulations ("Environmental Laws"). Consultant shall promptly reimburse the City for any fines or penalties levied against the City because of Consultant's failure to comply. Consultant shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the Project site except in strict compliance with the Environmental Laws. "Hazardous Materials" mean any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Consultant shall not deposit oil, gasoline, grease, lubricants, or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

6.23 PRESERVATION OF CONTRACTING INFORMATION

6.23.1. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Consultant agrees that this Agreement can be terminated if the Consultant 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 Agreement, then for the duration of this Agreement (including the initial term, any renewal terms, and any extensions), Consultant shall preserve all Contracting Information, as defined by Section 552.003 of the Texas Government Code, related to this Agreement 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, Consultant shall provide any Contracting Information related to this Agreement that is in the custody or possession of Consultant. Upon the expiration or termination of this Agreement, Consultant shall, at the Director's election, either (a) provide, at no cost to the City, all Contracting Information related to this Agreement that is in the custody or possession of Consultant, or (b) preserve the Contracting Information related to this Agreement as provided by the records retention

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or city policy.

- 6.23.2 If Consultant 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 Consultant and may terminate this Agreement. To effect final termination, the Director must notify Consultant in writing with a copy of the notice to the CPO. After receiving the notice, Consultant shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

6.24 USE OF WORK PRODUCTS

- 6.24.1 Consultant 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 Consultant, 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.
- 6.24.1 Consultant 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, Consultant 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.
- 6.24.2 Consultant shall execute all documents required by the Director to further evidence such assignment and ownership. Consultant 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 Consultant is requested and rendered pursuant to this Section, the City shall reimburse Consultant for all out-of-pocket expenses incurred by Consultant in rendering such assistance subject to the availability of funds. On termination of this Contract or upon request by the Director, Consultant shall deliver all Works to the City. Consultant shall obtain written agreements from its agents, contractors and subcontractors performing work hereunder which bind them to the terms contained in this Section.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

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

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

**EXHIBIT A
SCOPE OF SERVICES**

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

**EXHIBIT B
FEE SCHEDULE AND RATE CARD**

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

**EXHIBIT C
KEY PERSONNEL**

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

EXHIBIT D

TITLE VI: NON-DISCRIMINATION

During the performance of this Agreement, Contractor, for itself, its assignees and successors in interest 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 ("DOT") 49 CFR Part 21, as may be amended from time to time ("Regulations"), which are incorporated by reference and made a part of this Agreement.
2. Non-discrimination - The Contractor, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors, including procurement of materials and 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 Agreement covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment - In all solicitation, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports - The 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 sponsor or the FAA to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.f
5. Sanctions for Noncompliance - In the event of the Contractor's noncompliance with the non-discrimination provisions of this Agreement, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including but not limited to:
 - 5.1 withholding of payments to the Contractor under the Agreement until the Contractor complies, and/or
 - 5.2 cancellation, termination, or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions - The Contractor shall include the provisions of paragraphs 1-5 above in every subcontract, including procurement 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 sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. If the 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 sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the Contractor may

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

request the United States of America to enter into such litigation to protect the interests of the United States.

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

EXHIBIT "E"

DRUG POLICY COMPLIANCE AGREEMENT

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

(Name of Company) (Contractor)

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

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

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

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

Date

Contractor Name

Signature

Title

**SAMPLE AGREEMENT
TERMS SUBJECT TO CHANGE**

EXHIBIT "F"

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

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

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

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

in performing _____
(Project)

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

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "G"

DRUG POLICY COMPLIANCE DECLARATION

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

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

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

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

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

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

From _____ to _____ the following tests have occurred:
Initials (Start Date) (End Date)

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

Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.
Initials

I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.
Initials

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

Date

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "H"
FEDERAL MANDATORY CONTRACT CLAUSES

I. ACCESS TO RECORDS AND REPORTS

Consultant must maintain an acceptable cost accounting system. Consultant agrees to provide the City, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives, access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Consultant agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

II. GENERAL CIVIL RIGHTS PROVISIONS

Consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Consultant and sub-tier contractors/consultants from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

III. e CONSERVATION REQUIREMENTS

Consultant and subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*).

IV. FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

Consultant has full responsibility to monitor compliance to the referenced statute or regulation. Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor — Wage and Hour Division.

V. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Consultant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Consultant retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor — Occupational Safety and Health Administration.

VI. TRADE RESTRICTION CERTIFICATION

Consultant by entering into the Agreement certifies that:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Consultant must provide immediate written notice to the City if the Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Consultant must require subcontractors provide immediate written notice to Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to Consultant or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R., or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list, or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Consultant agrees that it will incorporate this provision for certification without modification in in all lower tier subcontracts. Consultant may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless Consultant has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that Consultant or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the City cancellation of the contract or subcontract for default at no cost to the City or the FAA.

VII. VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), Consultant and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

VIII. TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, City encourages Consultant to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. Consultant must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

IX. CERTIFICATION OF CONSULTANT REGARDING DEBARMENT

By entering into this Agreement contractor certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

X. CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

Consultant, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", shall verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. Consultant will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

XI. CERTIFICATION REGARDING LOBBYING

Consultant certifies by signing this Agreement, 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 Consultant, 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

EXHIBIT "I"

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).