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City of Houston - Contracts

Contract #: C70664

Vendor Name: DRC Emergency Services, LLC

Ordinance #: 07-0987

* 6637 *

* 6637 *



CITY OF HOUSTON
City Secretary

C70664

Interoffice

Correspondence

To: Ms. Annise Parker
City Controller

From: Anna Russell
City Secretary

Dept: FIA

Date: October 18, 2007

Fund: N/A

Attn: CONTRACT: RICHARD MORRIS, FIA

Subject: Contract

Dear Ms. Parker: Limit of Approp. (P.11); SAL clause (P.11); change Orders

The following are sent to you for handling to completion: (P.11); Term: Effec CS date

2 Contracts for three (3) years, Renewal: Automatically for two

Between City and DRC Emergency Services, LLC successive one-year terms. THIS

for Disaster Debris Removal Services for the Solid Waste Management Department CONTRACT

Authorized by Ordinance 2007-0987 WILL BE ACTIVATED UPON APPROVAL OF

Passed on August 29, 2007 FUNDING BY CITY COUNCIL.

Executed by Mayor October 16, 2007

Yours Truly,

Anna Russell
City Secretary

CS = 10-23-07

AR/bg

cc: Mr. Hayes

AK

CONTROLLER'S

2007 OCT 19 AM 9:28

COPIES PICKED UP
BY Richard Morris (AK)
DEPT REPRESENTATIVE
DATE 10/25/07

Controller's Office

To the Honorable Mayor and City Council of the City of Houston, Texas:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- () Funds have been encumbered out of funds previously appropriated for such purpose.
- () Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- () Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- () No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- () The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- () A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated hereby by this reference.
- () *Other - Contract will be activated upon approval of funding by City Council.*
- () Other - Grant Funds Available

Date: _____, 20__ City Controller of the City of Houston, Texas

FUND REF: N/A AMOUNT: - 0 - ENCUMB. NO.: RF21011-08

Ry

City of Houston, Texas Ordinance No. 2007-987

* * * *

AN ORDINANCE AWARING CONTRACTS TO DRC EMERGENCY SERVICES, LLC AND OMNI PINNACLE, LLC FOR DISASTER DEBRIS REMOVAL SERVICES FOR THE SOLID WASTE MANAGEMENT DEPARTMENT; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. Having duly advertised for and received competitive bids for the contracts described in the title of this ordinance, the City Council hereby finds and determines that the two lowest responsible and secure bids were submitted by DRC Emergency Services, LLC and Omni Pinnacle, LLC in the total amount of \$98,796,767.96 and \$118,368,157.00, respectively (which amounts are only estimates, if unit prices are included in the bid proposal of said bidders) and that such bids are the most advantageous for the City. Council further finds that disaster debris removal qualifies for the health and safety exemption to the state competitive bid law and that the contracts are hereby awarded to the two lowest and best bidders.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such contracts, agreements or other undertaking in the event of changed circumstances.

Section 3. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contracts without further authorization from Council.

Section 4. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 29th day of August, 2007.

APPROVED this _____ day of _____, 20____.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.



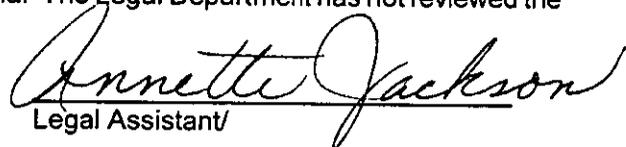
City Secretary

(Prepared by: Strategic Purchasing
Finance and Administration Dept.)

(Contact: Richard Morris)
(Phone: 247-1772)

This Ordinance has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

8-21-2007
Date



Legal Assistant/

(Basic Form GMS159:AWARD-APPROV-SUPP. ALLOCAT. ORD.; Approved by City Attorney 10/95 _____)

AYE	NO	
✓		MAYOR WHITE
••••	••••	COUNCIL MEMBERS
✓		LAWRENCE
✓		JOHNSON
✓		CLUTTERBUCK
✓		EDWARDS
	ABSENT	WISEMAN
✓		KHAN
✓		HOLM
✓		GARCIA
✓		ALVARADO
✓		BROWN
✓		LOVELL
✓		NORIEGA
✓		GREEN
	ABSENT	BERRY
CAPTION	ADOPTED	

C70664/07-0987

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary		RCA# 7582	
Subject: Formal Bids Received for Disaster Debris Removal Services for the Solid Waste Management Department S30-L22540		Category # 4	Page 1 of 2 Agenda Item 4427
FROM (Department or other point of origin): Calvin D. Wells City Purchasing Agent Finance and Administration Department		Origination Date August 17, 2007	Agenda Date AUG 29 2007 AUG 28 2007
DIRECTOR'S SIGNATURE <i>Calvin D. Wells</i>		Council District(s) affected All	
For additional information contact: Dan Gutierrez Phone: (713) 837-9214 Ray DuRousseau Phone: (713) 247-1735		Date and Identification of prior authorizing Council Action:	
RECOMMENDATION: (Summary) Approve the award of pre-positioned contracts to DRC Emergency Services, LLC (primary contractor) and Omni Pinnacle, LLC (secondary contractor) on their low bids for disaster debris removal services for the Solid Waste Management Department.			
No funding required at this time.			F & A Budget
SPECIFIC EXPLANATION: The City Purchasing Agent recommends that City Council approve pre-positioned five-year contracts to DRC Emergency Services, LLC (primary contractor) and Omni Pinnacle, LLC (secondary contractor) on their low bids for disaster debris removal services for the Solid Waste Management Department. The City Purchasing Agent may terminate these contracts at any time upon 30-days written notice to the contractors. The contractors shall be required to load and haul debris from public right-of-ways to debris management sites and/or approved landfills. This project was advertised in accordance with the requirements of the State of Texas bid laws. Thirty-seven prospective bidders viewed the solicitation document on SPD's e-bidding website and seventeen bids were received as outlined below:			
COMPANY		AMOUNT	
1.	DRC Emergency Services, LLC (Bid #1)	\$	98,796,767.96
2.	DRC Emergency Services, LLC (Bid #2)	\$	98,796,767.96
3.	Omni Pinnacle, LLC (Bid #1)	\$	118,368,157.00
4.	Omni Pinnacle, LLC (Bid #2)	\$	118,368,157.00
5.	AshBritt, Inc. (Bid #1)	\$	120,813,299.40
6.	AshBritt, Inc. (Bid #2)	\$	120,813,299.40
7.	TFR Enterprises, Inc.	\$	131,723,930.60
8.	Crowder Gulf	\$	131,964,548.50
9.	Ceres Environmental Services, Inc. (Bid #1)	\$	133,601,442.85
10.	Ceres Environmental Services, Inc. (Bid #2)	\$	140,209,931.30
11.	D&J Enterprises, Inc.	\$	148,512,808.00
12.	Asplundh Environmental Services, Inc. (Bid #1)	\$	157,765,864.19
13.	Asplundh Environmental Services, Inc. (Bid #2)	\$	157,765,864.19
14.	Phillips & Jordan, Inc.	\$	172,827,568.25
15.	Dougherty Sprague Environmental, Inc. (Bid #1)	\$	241,247,767.80
16.	Dougherty Sprague Environmental, Inc. (Bid #2)	\$	241,247,767.80
17.	Cherry Moving	\$	472,848,308.78
REQUIRED AUTHORIZATION			
F&A Director:		Other Authorization: (2) NOT	
		Other Authorization:	

DAV

Date: 8/17/2007	Subject: Formal Bids Received for Disaster Debris Removal Services for the Solid Waste Management Department S30-L22540	Originator's Initials RM	Page 2 of 2
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- Bidders were asked in the bid solicitation to provide the City with prices for the various types of services and ancillary items, identified on the official bid form, which may be needed in the event of a natural or man-made disaster. The actual amount of each service or ancillary item will be determined at the time of each disaster. **This contract will be activated upon approval of funding by City Council.**

The City's Emergency Management Plan has tasked the Solid Waste Management Department with the mission of removing natural or man-made disaster debris from public property, including the right-of-ways of public streets.

The scope of work requires the contractors to provide all labor, material, expendable supplies, vehicles, and supervision necessary to load and haul vegetation, damaged trees, and stumps from public right-of-ways to debris management sites and/or approved landfills following a hurricane or other natural or man-made disasters in a timely, efficient, safe and lawful manner.

This contract will contain a 19% M/WBE goal that will use City of Houston-certified M/WBE contractors upon activation and approval of funding by City Council.

Buyer: Richard Morris

C70664
07-0987

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

DISASTER DEBRIS CONTRACT

I. PARTIES

A. Address

THIS DISASTER DEBRIS CONTRACT ("Contract") is made by and between the CITY OF HOUSTON, TEXAS ("City"), a municipal corporation and home-rule city of the State of Texas principally situated in Harris County, acting by and through its governing body, the City Council and DRC Emergency Services, LLC ("Contractor"), Doing business in the State of Texas.

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>Contractor</u>
Director of Solid Waste Management Or Designee City of Houston P.O. Box 1562 Houston, Texas 77251	DRC Emergency Services, LLC 740 Museum Drive Mobile, Alabama 36608 Phone # 251-343-3581 Fax #251-343-5554

B. Index

This Contract consists of the following sections:

<u>Section</u>	<u>Description</u>	<u>Page</u>
I.	Signature Page	3
II.	Definitions	4
III.	Duties of Contractor	5
IV.	Duties of City	10
V.	Term and Termination	12
VI.	Miscellaneous Provisions	13

Exhibits

- A. Scope of Work
- B. Performance Bond
- C. Equal Employment Opportunity Compliance

- D. Drug Policy Compliance Agreement
- E. Drug Policy Compliance Declaration
- F. Certification of No Safety Impact Positions
- G. Manifest
- H. MWBE Sub-Contract Terms
- I. Drug Policy Compliance Declaration
- J. Contract Fee Schedule
- K. Pay or Play Program

C. Parts Incorporated

All of the above described sections and documents are hereby incorporated into this Contract by this reference for all purposes.

Signatures

IN WITNESS HEREOF, the City and the Contractor have made and executed this Contract in multiple copies, each of which is an original.

ATTEST/SEAL:

By: *Neil Callaway*
Name: Neil Callaway
Title: Contracts Manager

DRC Emergency Services, LLC

By: *Mark Stafford*
Name: Mark Stafford
Title: Chief Operating Officer

ATTEST/SEAL:

Arnell Russell
City Secretary

CITY OF HOUSTON, TEXAS

Signed by:

Bill White *Demayya Scott*
Mayor

APPROVED:

Harry G. Hay
Director, Solid Waste Management

COUNTERSIGNED BY:

Arvise D. Parker
City Controller *Maddame B. Appel*

APPROVED AS TO FORM:

DATE COUNTERSIGNED:

10-23-07

This contract has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

10-9-2007
Date

Annette Jackson
Legal Assistant

II. DEFINITIONS

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

"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.

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

"Commencement Date" means the date the Contractor receives written notice from the Director to begin the Project.

"Contract" means this document, inclusive of all attachments hereto, the bid solicitation documents, pre-certification documents, Contractor's Bid Proposal, City's General Conditions, change orders, performance bonds, statutory payment bond and any and all other documents incorporated herein by reference.

"Contract Term" is defined in Article V.

"Contractor" means the person, firm, or corporation entering into this Contract with the City to perform the Project.

"Countersignature Date" means that date shown as the date countersigned by the City Controller on the signature page of this Contract.

"Director" means the Director of the City's Department of Solid Waste Management and any other person designated by the Director to perform the various functions assigned to the Director under this Contract.

"Disposal Site" means the location(s), as identified in the City's Debris Management Plan, attached hereto and incorporated herein for all purposes, where Contractor is to dispose of the disaster debris.

"Project" includes all labor, materials equipment and vehicles necessary to complete the collection, transportation and disposal of disaster debris resulting from a natural or man made disaster.

"Project Area" means the City of Houston.

III. DUTIES OF CONTRACTOR

A. General

The Contractor agrees, at its own cost, to furnish all tools, labor, materials, equipment and vehicles necessary to accomplish the Project and to perform such Project in a good, sound, and workmanlike manner, in strict accordance with the terms and provisions of this Contract.

B. Inception/Completion

The Contractor shall begin work only upon receipt of written notice from the Director. The Contractor shall begin the Project within twenty-four hours (24) of receiving written notice to begin from the Director and shall work uninterruptedly, except as may otherwise be ordered in writing by the Director, to fully complete said Project within no more than 180 days from the Commencement Date.

C. Scope

(a) The Contractor shall complete the removal and disposal of disaster-generated debris in accordance with the terms outlined in this Contract.

(b) The Director reserves the right to alter the Project Area, disposal sites, scope of work or other elements of this contract through the issuance of a Change Order to Contractor. The Contractor shall have no obligation to perform work under a Change Order that in an increase or decrease in the Contract Price until the Contractor has received said Change Order. A Change Order under this Section shall not be issued unless and until sufficient sums are appropriated to cover any required additional fee.

D. Coordinate Performance

The Contractor shall coordinate his activities with the Director and such other person(s) as the Director may specify. The Contractor shall keep said person(s) currently advised on daily basis of developments relating to the performance of this Contract, and the Contractor shall at all appropriate times advise and consult with the Director.

E. Standard of Performance

The Contractor shall execute the Project as directed by this Contract in the most sound, workmanlike and reasonable manner. Labor shall be performed by competent persons. The Director shall have the right to remove Contractor from the job if Contractor is not performing services in such a manner.

F. Contractor's Qualifications

The Contractor represents that he is fully experience and properly qualified to perform the Project under this Contract and that it is properly licensed, bonded (if applicable), equipped, organized, and financed to perform such Project. The Contractor shall finance his own operations, shall operate as an independent contractor and not as an agent or employee of the City.

G. Use of Streets

Travel upon the streets shall not be hindered or needlessly inconvenienced by the Project, except in special cases. The Director will determine the special cases. Contractor shall not block or obstruct ditches, inlets and fire hydrants. The Contractor shall not in the prosecution of the Project obstruct any driveway or other entrance to private property either by the piling of soil/debris or the placing of materials

or equipment upon the same or in such manner as to obstruct the same.

H. Payment of Subcontractors

Contractor shall make timely payments to all persons and entities supplying labor, materials or equipment for the performance of this Contract. Contractor agrees to protect, defend, and indemnify the City from any claims or liability arising out of Contractor's failure to make such payments.

I. Personnel of the Contractor

Contractor shall replace any personnel assigned to provide services under this Contract who are deemed unsuitable by the Director.

J. Release

THE CONTRACTOR, ITS PREDECESSORS, SUCCESSORS AND ASSIGNS HEREBY RELEASE, RELINQUISH AND DISCHARE THE CITY OF HOUSTON, ITS PREDECESORS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVE, AND ITS FORMER, PRESENT AND FUTURE AGENTS, EMPLOYEES AND OFFICERS FROM ANY LIABILITY ARISING OUT OF THE SOLE AND/OR CONCURRENT NEGLIGENCE OF THE CITY OF HOUSTON FOR ANY INJURY, INCLUDING DEATH OR DAMAE TO PERSONS OR PROPERTY, WHERE SUCH DAMAGE IS SUSTAINED IN CONNECTION WITH OR ARISING OUT OF THE WORK PERFORMED UNDER THIS CONTRACT.

K. Subcontractor's Indemnity

CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS TO INCLUDE IN THEIR SUBCONTRACTS A REALEASE AND IDEMNITY IN FAVOR OF THE CITY IN SUBSTANTIALLY THE SAME FORM AS SET FOR THE HEREIN.

L. IDEMNIFICATION – (NOT TO EXCEED \$600,000 PER OCCURRENCE)

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

- (1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;**
- (2) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRATOR IS IMMUNE FROM LIABILITY OR NOTE; AND**
- (3) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.**

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATIONS IS LIMITED TO \$600,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

INDEMNIFICATION – (PROCEDURES)

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

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

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

(2) Defense of Claims

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

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

M. Insurance (General):

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

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

<u>(Coverage)</u>	<u>(Limit of Liability)</u>
Workers' compensation	Statutory for Worker's compensation
Employer's Liability	Bodily Injury by accident \$500,000 (each accident) Bodily Injury by Disease \$500,000 (policy limit)

Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury by Disease \$500,000 (each employee) Bodily Injury and Property Damage, Combined Limits of \$500,000 each Occurrence and \$1,000,000 aggregate
Excess Liability	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence and \$2,000,000 aggregate
(Real Property Only) ALL RISK covering Tenant Improvements, Trade Fixtures and Equipment (including fire, lighting, vandalism, and extended coverage perils)	[Replacement Value]
Automobile Liability Insurance (for vehicles Contractor Uses in performing under this Agreement, including Employer's Non-Ownership and Hired Auto Coverage)	\$1,000,000 combined single limit per occurrence

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

- (2) Form of Policies. The Director may approve the form of the insurance policies, but nothing the Director does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Director's actions or inactions do not waive the City's rights under this Agreement.
- (3) Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, Property-Casualty United States.
- (4) Insured Parties. Each policy, except those for Workers Compensations, Employer's Liability, and Professional Liability, must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.
- (5) Deductibles. Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.
- (6) Cancellation. Each policy must state that it may not be canceled, materially modified, or non-renewed unless the insurance company gives the Director 30 days advance written notice. Contractor shall give written notice to the Director within five days of the date on which total claims by any party against Contractor reduce the aggregate amount of

coverage below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.

- (7) Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.
- (8) Endorsement of Primary Insurance. Each policy, except Worker's Compensation and Professional Liability (if any), must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.
- (9) Liability for Premium. Contractor shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.
- (10) Subcontractors. Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Director.
- (11) Proof of Insurance.
 - (a) On the Effective Date and at any time during the Term of this Agreement, Contractor shall furnish the Director with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. If requested in writing by the Director, Contractor shall furnish the City with certified copies of Contractor's actual insurance policies.
 - (b) Contractor shall continuously and without interruption, maintain in force the required insurance coverage specified in this Section. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may
 - (1) immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or
 - (2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.
- (12) Other Insurance. If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

N. Licenses and Permits.

The Contractor shall obtain and pay for all licenses, permits and certificates required by any statute, ordinance, rule, or regulation of any regulatory body having jurisdiction over the conduct of its operations hereunder.

O. Compliance with Laws.

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

P. Compliance with Equal Opportunity Ordinance

Contractor shall comply with all provisions of the City's Equal Employment Opportunity Ordinance as set out in Exhibit "C".

Q. Payment Bond

Prior to commencing the Project, the Contractor shall deliver a payment bond in the amount of \$5,000,000.00 to the City in a form substantially similar to the form attached hereto as Exhibit "K" and approved by the City Attorney. Bond shall be executed by Contractor and a corporate surety company authorized to do business and issue insurance in the State of Texas. The corporate surety company must be included in the current list published by the U.S. Treasury Department of surety companies and must have an underwriting limitation which exceeds the face amount of the bond. Each executed bond must be accompanied by a current certificate of power of attorney or other acceptable documentary proof that the individual who signed the bond on behalf of the surety has the necessary authority to have executed the bond.

R. Performance Bonds

Prior to commencing the Project, the Contractor shall deliver a performance bond in the amount of \$5,000,000.00 to the City in a form substantially similar to the form attached hereto as Exhibit "B" and approved by the City Attorney. The performance bond shall be conditioned upon the faithful performance by Contractor of the terms and conditions of this Contract. Bond shall be executed by Contractor and a corporate surety company authorized to do business and issue insurance in the State of Texas. The corporate surety company must be included in the current list published by the U.S. Treasury Department of surety companies and must have an underwriting limitation which exceeds the face amount of the bond. Each executed bond must be accompanied by a current certificate of power of attorney or other acceptable documentary proof that the individual who signed the bond on behalf of the surety has the necessary authority to have executed the bond. If Contractor is found to be in default of this Contract by the City, then City shall have the right to enforce the performance bond and apply the proceeds thereof to pay such costs as may be incurred by the City as a result of Contractor's breach of this Contract. Contractor shall ensure that its performance bonds remain valid and enforcement throughout the term of this Contract.

IV. DUTIES OF CITY

A. Payment

The City shall make payments to Contractor at the rates set forth in the Contract Fee Schedule (Exhibit "J") within 30 days of City's receipt and approval of Contractor's detailed invoice showing services provided during the invoice period and the associated fees.

B. Contract Price

The city shall pay the Contractor for satisfactory performance of the Project described herein in accordance with the Contract Fee Schedule (Exhibit "J"). Beginning on the first anniversary of the Countersignature Date of the Agreement, and on each anniversary thereafter, fees will be adjusted, upward or downward as the case may be, by the lesser of five percent (5%) or the net annual change in the Construction Cost Index as published in the Engineering News Record for the current year. The amount will be paid based on a manifest system designated by the City. The manifest will be originated by the City designated disaster area manager or captain, signed by

the driver of the collection vehicle, and submitted to the manager of the designated disposal site. The final manifest signed by the disaster area manager, the driver, and the disposal site manager will be submitted to the City with an invoice for payment by the contractor. All work done to accomplish the Project shall be subject to inspection by the Director prior to any payment.

C. Change Orders

In the event that a Change Order results in a decrease in the Contract Price, the Director shall deduct the amount of the decrease from the Contract Price. In the event that a Change Order results in an increase in the Contract Price, then the Director shall add the amount of the increase to the Contract Price. If a Change Order results in an increase of more than \$25,000.00 to the Contract price, then City Council must approve the increase.

D. Limit of Appropriation: Allocated Funds: Limitation of City's Duties

(a) The City's duties to pay money to the Contractor for any purpose under this Contract are limited in their entirety by the provisions of this Section.

(b) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$0.00 to be used to discharge its duties to pay money under this Contract (the "Original Allocation"). The parties recognize that the executive and legislative officers of the City, in the exercise of their sound discretion, may allocate supplemental sums of money for the purpose of this Contract. Because the City's officers are not obligated to make any such supplemental allocations, the parties have agreed to certain procedures and remedies to be followed with respect thereto.

(c) A supplemental allocation will only be deemed to be made when the City sends a notice to the Contractor (which notice must be signed by the Director and the City Controller and where in excess of \$5,000, approved by motion or ordinance of City Council) in substantially the following form:

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

TO: [Name of Contractor]

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

DATE: [Date of notice]

SUBJECT: Supplemental allocation of funds for the purpose of that certain "[title of this Contract]" by and between the City and (name of Contractor) countersigned by the City Controller on (Date of Countersignature) (the "Contract").

I, (name of City Controller), City Controller of the City of Houston, do hereby certify that the supplemental sum of \$_____, upon the request of the below-signed Director, has been allocated for the purpose of the Contract specified above out of funds appropriated for such purpose by the City Council of the City of Houston. Such supplemental allocation has been charged to such appropriation.

The aggregate of all sums allocated for the purpose of such Contract, including the Original Allocation, other supplemental allocations (if any) and the supplemental sum specified herein, as of the date of this notice, is \$_____.

SIGNED:

(Signature of the City Controller)
City Controller of the City

REQUESTED:

(Signature of the Director)
Director

(d) The aggregate of the Original Allocation and all supplemental allocations effected by notice to the Contractor in substantially the foregoing form, if any, shall be the Allocated Funds. The City shall never be obligated to pay any money by, through or under this Contract in an aggregate amount which exceeds the level of Allocated Funds. It shall be the obligation of the Contractor to assure itself that sufficient allocations have been made to pay for services provided. In the event that Allocated Funds are exhausted, Contractor's only remedy shall be suspension or termination of its performance under this Contract and it shall have no other remedy in law or in equity against the City and no right to damages of any kind.

E. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. The Contractor's invoices to the City shall not contain assessments of any of these taxes. The City exemption certificate and federal tax identification number will be furnished by the Director to the Contractor where necessary to document this tax exemption.

V. TERM AND TERMINATION

A. Contract Term

The term of this Agreement shall be for a period of approximately three (3) years unless sooner terminated as provided for in this Agreement. Commencing on the Countersignature Date as executed by the City Controller. Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two successive one-year terms on the same terms and conditions. If the Director/Chief of the City Department elects not to renew this Agreement, the City Purchasing Agent shall notify Contractor in written of non-renewal at least 30 days before the expiration of the then current term.

Contractor acknowledges and agrees that any services it provides to the City after the termination date of this Contract, will be deemed to be gratuitously provided, and the City shall have no obligation to pay for such services unless the City Council approves an agreement to do so in its sole discretion.

B. Termination for Convenience by the City

The Director at his or her sole discretion may terminate Contractor's performance under this Contract at any time by giving thirty (30) day written notice to Contractor. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services in connection with this Contract. As soon as practicable after receipt of notice of termination, Contractor shall submit an invoice showing in detail the services performed under this Contract to the date of termination. The City shall then pay the prorated portion of the Contract price for services actually performed under this Contract to

the date of termination, but not already paid for, in the same manner as prescribed in Section IV provided such fees do not exceed the Allocated Funds remaining under this Contract.

Termination of performance and receipt of payment for services rendered as set out above shall be Contractor's only remedies in the event of termination for convenience by the City. Such termination by the City shall not constitute a default or breach of this Contract, and Contractor waives any claim (other than its claim for payment as specified in this section), it may have or in the future for financial losses or other damages which may be occasioned by the City's termination for convenience.

C. Termination by Contractor

Contractor may terminate its performance under this Contract only in the event of default by the City and a failure by the City to cure such default after receiving notice thereof, all as provided in this Section. Default by the City shall occur in the City fails to observe or perform any of its duties under this Contract. Should such a default occur, Contractor may deliver a written notice to the Director describing such default and the proposed date of termination. Such date may not be sooner than the 5th day following receipt of the notice. Contractor, at its sole option, may extend the proposed date of termination to a later date. If prior to the proposed date of termination, the City cures such default, then the proposed termination shall be ineffective. If the City fails to cure such default prior to the proposed date of termination, then Contractor may terminate its performance under this Contract as of such date.

VI. MISCELLANEOUS

A. Independent Contractor

The Contractor agrees to perform the work as an independent contractor and not as a subcontractor, agent or employee of the City.

B. Severability

In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either the Contractor or the City in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

C. Entire Agreement

This Contract merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (expressed or implied) or other terms with respect to the Project, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

D. Written Amendment

Unless otherwise provided herein, this Contract may be amended only by written instrument duly executed on behalf of the federal government of the United States of America and all rules and regulations of any regulatory body or officer having jurisdiction, including the City's Charter and Code of Ordinances. Venue for any litigation relating to this Contract shall be Harris County, Texas.

E. Applicable Laws

This Contract is subject to all laws of the State of Texas, the City Charter and Ordinances of the City of Houston, the laws of the federal government of the United States of America and all rules and regulations

of any regulatory body or officer having jurisdiction, including the City's Charter and Code of Ordinances. Venue for any litigation relating to this Contract shall be Harris County, Texas.

F. Notices

All notices required or permitted, hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other party at the address prescribed in the preamble of this Contract or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

G. Enforcement

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

H. Ambiguities

In the event of any ambiguity in any of the terms of this Contract, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

I. Survival

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

J. Non-Waiver

Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any right or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

K. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under §9.318(c) of the Texas Business & Commerce Code. In the case of such as assignment, under Section 9.102 of the Code, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and clear identification of the fees to be paid to the Assignee. Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

L. Successors

This Contract shall bind and benefit the parties and their legal successors. This Contract does not create any personal liability on the part of any officer or agent of the City.

M. Drug Detection and Deterrence

It is the policy of the City to achieve a drug-free workforce and to provide a workplace that is free from the use of illegal drugs and alcohol. It is also the policy of the City that the manufacture, distribution, dispensation, possession, sale or use of illegal drugs or alcohol by contractors while on City premises is prohibited. By executing this Contract, Contractor represents and certifies that it meets and shall comply with all the requirements and procedures set forth in the Mayor's Policy on Drug Detection and Deterrence, City Council Motion No. 92-1971 ("Mayor's Policy") and the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), both of which are on file in the Office of the City Secretary.

Confirming its compliance with the Mayor's Policy and the Executive Order, Contractor, as a condition precedent to City's obligations under this Contract, will have filed with the Contract Compliance Officer for Drug Testing ("CCODT"), prior to the execution of this Contract by the City, (i) a copy of its drug-free workplace policy, (ii) the Drug Policy Compliance Agreement substantially in the format set forth in Exhibit "F", together with a written designation of all safety impact positions and, (iii) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the format set forth in Exhibit "H". If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six (6) months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "G". The Drug Policy Compliance Declaration shall be submitted to the CCODT within thirty (30) days of the expiration of each six (6) month period of performance and within thirty (30) days of completion of this Contract. The first six (6) month period shall begin to run on the date the City issues its notice to proceed hereunder or if not notice to proceed is issued, on the first day Contractor begins work under this Contract.

Contractor shall have the continuing obligation to file with the CCODT written designation of safety impact positions and Drug Policy Compliance Declarations at any time during the performance of the Contract that safety impact positions are added if initially no safety impact positions were designated. Contractor also shall have the continuing obligation to file updated designations of safety impact positions with the CCODT when additional safety impact positions are added to Contractor's employee work force.

Contractor shall require that its subcontractors hereunder comply with the Mayor's Policy and the Executive Order and Contractor shall be responsible for securing and maintaining the required documents for City inspection throughout the term of this Contract.

The failure of Contractor to comply with the above Sections shall be a breach of this Contract entitling City to terminate in accordance with Article VI.

N. Minority and Women Business Enterprises

It is the City's policy to ensure that Minority and Women Business Enterprises ("MWBEs") have the full opportunity to compete for and participate in City Contracts. The objectives of Chapter 15, Article V of the City of Houston Code of Ordinances, relating to City-wide Percentage Goals for contracting with MWBEs, are incorporated into this Agreement.

Contractor shall make good faith efforts to award subcontractors or supply agreements in at least 19% of the value of this Agreement to MWBEs. The City's policy does not require Contractor to in fact meet or exceed these goals, but it does require Contractor to objectively demonstrate that it has made good faith efforts to do so. To this end, Contractor shall maintain records showing

(2) subcontracts and supply agreements with Women's Business Enterprise, and

(3) specific efforts to identify and award subcontracts and supply agreements to MWBEs. Contractor shall submit periodic reports of its efforts under this Section to the Affirmative Action Director in the form and at the times he or she prescribes.

Contractor shall require written subcontracts with all MWBE subcontractors and suppliers and shall submit all disputes with MWBE subcontractors to binding arbitration if directed to do so by the Affirmative Action Director. All agreements must contain the terms set out in Exhibit "H". If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, then the subcontract must also be signed by the attorneys of the respective parties.

EXHIBIT "A"

Scope of Work

A.1 DEBRIS REMOVAL

PART 1 – GENERAL

1.01 DESCRIPTION

- a. Scope of Work: Work under this section consists of post-hurricane/disaster debris removal from public property and the public rights of way within the City limits and proper disposal of the debris. The work consists of loading and hauling debris from the public rights-of-way to Debris Management Sites (DMS) (previously called Temporary Debris Storage and Reduction sites) and/or approved landfills.
- b. Preparedness: Key personnel, proposed by the Contractor under the pre-qualification process, must participate in the City's annual hurricane preparedness training activities, a maximum of two (2) days each year at no cost to the City if requested by the Director of Solid Waste Management (DSWM).
- c. Prepositioning: Upon notification from the DSWM, Contractor must provide a two-person management team on-site to participate in advance recovery preparations. Expected time frame is 24 to 36 hours prior to project hurricane landfall. The purpose is to initiate actions necessary to ensure that Contractor resources shall be able to begin recovery operations within 24 hours of receiving the Notice to Proceed from the City.
- d. Inspection of Debris: As soon as possible after the hurricane/disaster event has subsided, the Contractor must make a detailed and thorough on-site inspection of debris to be removed, and consider (1) amounts and types of debris; (2) working conditions such as traffic, street/road width, and land use; (3) means of ingress and egress to work areas; and (4) all other factors affecting the removal and disposal work.
- e. Coordination: Debris removal is limited to that which is determined by the City's Director of Solid Waste Management Department to be in the best public interest and that which is considered essential to the economic recovery of the affected area. The Director of Solid Waste Management shall determine priorities for debris removal. The Contractor must effect coordination with other contractors, city officials and parties as directed by the Director of Solid Waste Management (DSWM).
- f. City Limits: Work is limited to areas within the boundaries of the City of Houston.
- g. Quality Assurance: Work shall be closely monitored by City personnel and/or designated representatives. The Contractor must cooperate with all monitors representing the City.

PART 2 – EXECUTION

2.01 DEBRIS REMOVAL

- a. General: The goal of the debris removal work is to load and haul debris from public property and the public rights-of-way to assigned DMS and/or approved landfills. In general, but not exclusively, this consists of curbside debris removal on City property only. The types of debris to be removed include, but are not limited to trees, woody debris, brush, building wreckage, construction and

demolition debris (C&D), and personal property and household goods on public property or in public rights-of-way. Debris removal operations also include the removal of tree stumps, cutting and removing partially uprooted or split trees and tree stumps, collection of debris laden sand and backfilling of stump craters. Debris is to be removed without regard to whether or not it was deposited in those areas as a result of the disaster or placed there by local citizen after the disaster. Hazardous materials are not covered by this scope of work.

- b. Preparations/Submittal: Prior to commencing any removal work, the beds of all hauling vehicles must be measured to determine their fully loaded capacities in cubic yards. The vehicles must be marked externally with the owner/operator's name, the contract number, vehicle ID number and the fully loaded capacity. Those markings must be clearly visible on both sides of the vehicle and on the front wall of the bed. All markings must be certified by the Contractor. A list of all vehicles, with the owner/operator's name, vehicle ID number and hauling capacity must be submitted to the Director of Solid Waste Management (DSWM) before the vehicles are placed in service. The City shall provide 4-multi part load tickets for each vehicle at each loading site. The tickets must be signed by the vehicle driver and then presented to the City's monitor at the designated disposal site.
- c. Hazardous Materials: Hazardous and toxic wastes shall be loaded, hauled, and disposed of by others and are excluded from this work. The City shall execute a separate hazardous materials removal and disposal contract; however, collection schedules may not necessarily coincide with the debris removal work. Hazardous materials include chemicals, petroleum products, paint products, asbestos, power transformers, oxygen bottles, propane tanks, batteries, industrial and agricultural chemicals, cleaning agents and similar hazardous, dangerous or toxic materials. Some preliminary curbside separation shall be attempted, but Contractor must be aware that hazardous materials might be commingled with debris. Contractor shall take every precaution to avoid loading and hauling hazardous materials. Notwithstanding, Contractor forces must be aware of the appropriate safety precautions. Further, Contractor shall be responsible for safe and proper handling of any hazardous materials inadvertently loaded by Contractor forces. Contractor forces must notify the Director of Solid Waste Management (DSWM) of locations where hazardous materials are encountered.
- d. Other Non-Collection Items: The following items must not be removed or hauled to the designated disposal sites:

- Household comestible garbage
- Electric company transformer, poles and other equipment and materials
- Telephone company transformers, poles and other equipment and materials
- Traffic signs, signals, and appurtenances
- Debris on private property
- Vehicles

Curbside collection of household comestible garbage shall be handled by the usual public and private haulers. Household garbage must not be mixed with storm debris. All utility equipment, traffic signs and signals that are encountered must be moved to a visible, accessible location at or near curbside for disposition by utility companies for the City. Debris on private property may be removed only upon receipt of authorization from the Director of Solid Waste Management (DSWM) to do so and only if it poses an immediate threat to public health and safety, interferes with prescribed removal operations, or is necessary to allow Contractor to perform assigned tasks. In such cases, authorization to enter onto private property must be obtained from the DSWM. Vehicles that are in the way of debris removal operations may not be moved. Instead, the Contractor shall report the locations of such vehicles to the DSWM.

- e. Debris Removal: Debris shall be removed from all parts of City as well as the DMS. During debris removal operations, extreme caution must be exercised by the Contractor to ensure that no damage is done to public or private properties. All crawler or tracked vehicles operated on public streets must have pads to prevent damage to hard-surfaced streets.
- f. Loading: All loose debris, such as tree limbs, must be reasonably compacted in the hauling vehicles during loading. All debris extending beyond the vehicle in any horizontal direction must be cut off or otherwise removed.
- g. Hauling: All vehicles utilized in hauling debris must be equipped with adequate means for containing the load, including canvas covering while transporting the debris to the DMS and/or approved landfills. Covering must effectively prevent debris from being blown or bounced off the vehicles. Sideboards or other extensions to the bed shall be permitted provided they meet state and local requirements, cover front and two sides, and are substantially constructed. Sideboards must be constructed of 2" x 6" boards or greater and may not extend more than 2 feet above the metal bed sides. Vehicles must be equipped with a tailgate or other devices that shall effectively contain the debris on the vehicle while hauling, and also permit the vehicle to be loaded to capacity.
- h. Dumping: All debris must be hauled to assigned DMS and/or approved landfills. All trees, woody debris, and brush shall be accepted at DMS and may be accepted at other sites specifically approved by the City. Construction and demolition debris must be similarly transported.
- i. Equipment Storage: The Contractor is responsible for locating areas where its equipment may be stored, serviced and repaired. Such areas must not be located within rights-of-way or in any areas that would impact traffic flow or produce a safety hazard. This does not preclude parking equipment for short periods of time, including overnight, in rights-of-way areas where work is in progress; on-site refueling and operating checks including daily maintenance shall be allowed. Properly prepared areas within the DMS may be used for this purpose.

2.02 SCHEDULE

- a. Removal operations must begin within 24 hours of receiving the Notice-to-Proceed and be functioning at 100% of capacity within 5 days. These operations are to be fully integrated with the DMS operations. Removal may begin earlier if adequate disposal sites are available and properly prepared. The Director of Solid Waste Management (DSWM) reserves the right to increase or decrease the scope of the removal activity as he/she deems necessary to ensure effective management of the overall debris removal/disposal operations.
- b. Working Hours: Unless otherwise permitted by the City, working hours for removal operations shall be limited to daylight hours.

2.03 EXTRA WORK

At the Director's option, the scope of work may be expanded to include public parks, other recreational areas, drainage structures and channels, and reservoirs.

3.01 COMPENSATION FOR DEBRIS CLEARANCE AND HAULING

- a. Contractor shall be compensated by the cubic yard for those activities shown below to be measured by volume. Where a range of miles distant to the disposal site is shown, compensation shall be by cubic yard within the applicable range of miles to the disposal site. Those activities designated with a different unit of measure shall be compensated in the appropriate unit of measure.

Group 1. Rights-of-Way Vegetative Collection Rate

Vegetative debris collected from public or private rights-of-way (ROW) and improved public lands, hauled to, and dumped at the debris management site(s). This includes the removal, collection, hauling, and disposal of all stumps less than 24 inches in diameter and any stumps not originating in the ROW (including stumps removed by third parties and placed in the ROW).

Miles to disposal site
0-15 miles
16-30 miles
31-60 miles

Group 2. Private Property Vegetative Collection Rate

Vegetative debris collected from private property, hauled to, and dumped at the debris management site(s). This includes the removal, collection, hauling and disposal of all stumps less than 24 inches in diameter and any stumps not originating in the ROW (including stumps removed by third parties and placed in the ROW).

Miles to disposal site
0-15 miles
16-30 miles
31-60 miles

Group 3. Rights of Way Construction and Demolition Collection Rate

Construction and demolition debris collection from designated work zone, hauled to, and dumped at the debris management site(s) or other designated location

Miles to disposal site
0-15 miles
16-30 miles
31-60 miles

Group 4. Cutting Partially Uprooted or Split Trees (Leaners)

Falling partially uprooted or split trees from the ROW or the overhanging portion of the ROW and placing the debris in the ROW for haul-off.

Partially Uprooted Leaner (Price is inclusive of excavating the root ball and placing it in the ROW)

Diameter of tree at 2 feet from base

Less than 24 inches

24-36 inches

Greater than 36 inches

Split Leaner (No exposed root ball) Price is inclusive of flush cutting the tree trunk)

Diameter of tree at 2 feet from base

Less than 24 inches

24-36 inches

Greater than 36 inches

Group 5. Removal of Dangerous Hanging Limbs (Hangers)

Removing hanging or partially broken limbs from trees in the ROW or limbs hanging over the ROQ and placing the debris in the ROW for haul-off

Group 6. Demolition and Collection Rate

Demolish identified structures in designated work zone. Remove C&D debris from designated work zone, haul to, and dump at the DMC or other designated location.

Group 7. Hazardous Stump Removal and Collection Rate

Removal and collection of stumps partially uprooted in the ROW. Stumps shall be identified and certified in the ROW by the City or its representative. Stumps shall be hauled to and dumped at a debris management site(s) or other designated location.

Diameter of Stump at 2 feet from base

24-36 inches

36-48 inches

Greater than 48 inches

Group 8. Stump Removal and Collection Rate

Removal and collection of stumps brought to the ROW. Stumps shall be hauled to and dumped at a debris management site(s) or other designated location.

According to FEMA guidelines for conversion of stumps to cubic yards

Group 9. Sand Collection (Public Property) and Screening Rate

Removal and collection of debris-laden sand from public property. Debris-laden sand shall be hauled to a designated location, screened, and stockpiled at a debris management site(s). Debris generated from screened rejects shall be hauled to a debris management site(s) or other designated location.

Group 10. **Sand Collection (Private Property) and Screening Rate**

Removal and collection of debris-laden sand from public property. Debris-laden sand shall be hauled to a designated location, screened, and stockpiled at a debris management site(s). Debris generated from screened rejects shall be hauled to a debris management site(s) or other designated location.

Group 11. **Backfill**

Supply and replacement of clean fill dirt into holes created by stump removal in the ROW.

A.2 DEBRIS MANAGEMENT SITE OPERATION

PART 1 – GENERAL

1.01 DESCRIPTION

- a. Scope of Work: Work under this section consists of preparation, operation, and closure of Debris Management Site (DMS) for the project. At these sites the Contractor must accept, temporarily store, segregate, reduce, recycle as appropriate, and dispose of debris generated by the hurricane/disaster event and brought to the site by trucks under Contractor's control or by other carriers specifically designated by the City.
- b. The Contractor shall, upon the commencement of this contract, identify properties within the Houston area and enter into separate agreements with the property owners to prepare and use the property as Debris Management Sites (DMS). The Contractor shall conduct environmental surveys, prepare the property as needed, acquire state permits as required and effect all other arrangements so as to be able to use the property on short notice as a DMS. The Contractor shall notify the DSWM of any such agreements upon their notification by all parties.
- c. At each DMS the Contractor must be fully prepared to:
 - Accept materials collected during debris removal operations.
 - Segregate materials into waste streams that can either be recycled, picked up by other Contractors (as in the case of HAZMAT waste), treated in a common manner (i.e. mechanical reduction) or taken to a common disposal point such as an approved landfill.
 - Reduce materials through mechanical reduction (chipping, grinding), incineration (if specially authorized by the Director of Solid Waste Management), and recycling on site or post-collection resale for recycling or other purposes.
 - Conduct on-site air curtain burning of certain materials as may be directed by the City. Contractor should identify equipment and operator resources; however, no burning may take place without specific City direction.
 - Dispose of segregated or reduced debris through resale of materials or disposition of processing wastes in a properly permitted landfill or other disposal site.
- d. City Limits: The source of debris is limited to areas within the boundaries of the City of Houston.
- e. Preparedness: A representative of the Contractor or Subcontractor who shall operate the DMS must participate in the City's annual hurricane exercise at no cost to the City if requested by the DSWM.

- f. Pre-positioning: In order to expedite the implementation of DMS operations the Contractor must provide personnel on-site prior to a projected hurricane/disaster event to carry out any activities necessary to assure that the DMS shall be ready when needed. Actual preparation of the DMS must begin within 24 hours of receipt of the Notice-to Proceed and the sites must be fully operational not more that 5 days thereafter.
- g. Existing Conditions: The Contractor must, as part of the site preparation actions, photo-document the site conditions using both a video camera and still photographs. The Contractor should keep one copy of the videotape and photographs for its records. The Contractor must provide one copy of the videotape and the still photographs to the Director of Solid Waste Management.
- h. Nonetheless, The Contractor must be aware of, and abide by, the conditions of any permits under which he/she must operate. The Contractor is responsible for knowing the applicability and requirements of all applicable environmental laws and regulations that could pertain to the operation of DMS.

The Contractor shall be responsible for paying any and all costs associated with violations of law or regulation relative to his/her activities. Such costs might include but are not limited to; site cleanup and/or remediation, fines, administrative or civil penalties, third party claims imposed on the City by any regulatory agency or by any third party as a result of noncompliance with Federal, State, or Local environmental laws and regulations or nuisance statutes by Contractor, his/her Subcontractors, or any other persons, corporations or legal entities retained by the Contractor under this contract.

- i. Meetings: The Contractor must attend any and all meetings required by the Director of Solid Waste Management or his/her designee to evaluate the operations of the DMS.
- j. Quality Assurance: The work shall be closely monitored by City monitors and/or designated representatives of the City. The Contractor shall cooperate with all monitors.

PART 2 – EXECUTION

2.01 DMS PREPARATION

- a. Site Setup: Unless specifically directed otherwise by the Director of Solid Waste Management, site setup must commence as soon as possible after the hurricane/disaster event has subsided, but no later than 24 hours from the time that the Notice-to-Proceed is issued by the Director of Solid Waste Management. All DMS must be fully operational within 5 days receipt of the Notice-to-Proceed. The Contractor must prepare each site for operation by installing the following features:

Perimeter fencing.

Construction entrances including gates.
Built-up aggregate access roads.
Drainage and storm water retention features (where applicable).
Erosion and sediment control fencing.
Inspection tower.
Operations trailer.
All other site improvements necessary for the safe, efficient, economical and environmentally acceptable operation of the sites.

The Contractor must construct berms or provide suitable secondary containment around all non-truck mounted fuel storage tanks, hazardous wastes and stockpiled ash to prevent runoff of these materials into adjacent ditches and surface waters.

- b. Baseline Sampling and Testing: The Contractor must collect and test soil and groundwater samples at each DMS in areas designated for storm water retention, ash storage, vehicle maintenance fuel dispensing operations and any areas where hazardous substances and petroleum products are or might be generated, stored or used. Samples must be tested for Total Petroleum Hydrocarbons (TPH) and Resource Conservation and Recovery Act (RCRA) metals. The Contractor must secure independent laboratory analytical tests for the referenced substances tested and provide the results to the Director of Solid Waste Management prior to the commencement of operations at the DMS.
- c. Protection: Within the limits of or adjacent to the DMS, there may be existing underground electric, telephone and television cables and conduits, gas, water and sewer utility lines which cannot be located from existing data. It is the responsibility of the Contractor to determine their exact location and to carry out his/her work carefully and skillfully so as to avoid damage to them. The City may elect to provide this information to Contractor in advance. In any case, Contractor shall ensure the locations of such utility installations are adequately marked.
- d. Temporary Utilities: All temporary utilities including sewage disposal and potable water must be provided by the Contractor.
- e. Signage: The Contractor must provide signs at each of the DMS in accordance with City of Houston specifications and contain the following information:
- Contractor's superintendent's name, local address and local 24-hour telephone number.
 - Name of the DMS facility.
 - Name, address and telephone number of the City representative to contact in case of an emergency.
- f. Plans: The Contractor must develop and provide to the Director of Solid Waste Management the following materials prior to start-up:
- Site layout plan
 - Proposed operating procedures
 - Site/operations safety plan

- g. Startup: When all DMS preparations are completed, the Contractor must notify the Director of Solid Waste Management who shall inspect the site and approve the site for commencement of DMS operations.

2.02 DMS OPERATIONS

- a. General Operations: The Contractor shall operate each DMS in an effective and efficient manner for such time as the Director of Solid Waste Management deems necessary. DMS may operate on a 24-hour, 7-day basis unless otherwise directed by the Director of Solid Waste Management.

The Contractor must operate such equipment as is necessary to efficiently reduce by mechanical means or incineration all materials deposited at the DMS that require reduction before final disposal. The Contractor must segregate all debris in accordance with the method of processing and potential for recycling. The Contractor must separate and contain all hazardous wastes for pick up and disposal by the City's hazardous waste Contractor. Comestible garbage shall be separated and contained for pick-up by the City's designated hauler. The Contractor must staff the DMS with sufficient personnel to ensure the waste stream segregation and processing operation does not reduce the capacity to remove debris from City streets in a timely manner. The operation of each DMS must conform to these specifications and any permits issued for the DMS. The Contractor is responsible for all site and worker safety issues.

- b. Control of Material: The contractor must make every effort to control the nature of the material allowed into the DMS, with the objective being to have only C&D materials, clean woody debris, household debris (other than HAZMAT and garbage) and similar materials brought to and deposited in the DMS. All materials brought to the DMS by vehicles under Contractor's control but not accepted at the DMS must be disposed of by the Contractor at an approved landfill or by other legal means of disposal.
- c. Environmental Controls: The contractor is responsible for monitoring the temperature of stockpiled mulch at least twice daily to detect hot spots resulting from natural microbial decomposition. Upon finding a hot spot, the Contractor must mechanically mix the affected mulch to cool it down and avoid creating a fire hazard. The Contractor must secure the services of an independent laboratory to sample and test any ash generated from burning prior to its lawful disposal. Copies of all documents pertaining to the disposition of the ash (e.g. analytical results, shipping manifests, certificates of destruction) must be submitted to the Director of Solid Waste Management.

The Contractor must, to the extent practicable, separate hazardous waste and asbestos from all woody and structural debris that is to be further processed, reduced, recycled or burned. Segregation of asbestos from curbside debris planned for direct disposal at a landfill shall not be required.

- d. Control of Rodents, Vermin, Insects, Birds and Wildlife: The Contractor must operate the DMS in such manner as to minimize the possibility of infestation by rodents, other vermin and insects and to minimize the potential for attracting birds and wildlife. The Contractor shall be responsible for proper and safe application of rodenticide and insecticide as a precautionary tactic to minimize the potential for infestation. Additional applications of such materials shall be made as necessary to eradicate infestations. All sites and work areas shall be subject to inspection and monitoring by City health and safety personnel.
- e. Debris Ownership and Disposal: The Contractor must remove or arrange for the removal and final disposal of all debris brought to the DMS. Options include but are not limited to sending the material to an authorized and properly permitted disposal area, recycling facility or resale entity. The Contractor must maintain records for all materials, including processed debris, residue, and hazardous materials, being transported from the DMS to disposal or recycling facilities. The Contractor must secure an EPA Identification Number prior to the lawful disposal of any ash determined to be hazardous based on analytical results. Copies of this documentation must be provided to the Director of Solid Waste Management for his/her/ review. The Contractor shall be considered the owner of all debris brought to the DMS.

2.03 DMS CLOSURE

- a. Restoration: The Contractor must restore all DMS to their original condition to the extent feasible or to the satisfaction of the Director of Solid Waste Management. Unless otherwise directed by the City, all improvements (e.g., fencing, haul roads, trailer) must be removed. The Contractor must reestablish grades (i.e. roads, and ditches) throughout each DMS. The Contractor must request and participate in site inspections by the Director of Solid Waste Management for final approval of all site closure and restoration activities.
- b. Sampling and Testing: The Contractor must complete soil and groundwater closure sampling and testing in the areas described in the baseline sampling information. The same tests must be completed as were performed prior to commencing with DMS operations (TPH and RCRA metals). The analytical results must be provided to the Director of the Solid Waste Management Department prior to closure of each DMS. Areas found to be contaminated above the baseline values must be remediated by the Contractor. The Contractor is regarded as the generator of such contaminants for the purposes of federal environmental statutes.

3.01 COMPENSATION

- a. Debris Management site preparation, permitting operation, environmental assessment and closure shall be included in the fee per cubic yard for the various activities listed below.
- b. Contractor may bill and the City shall pay by the cubic yard for:

1. Reduction of vegetative debris by burning of the DMS.
2. Reduction of vegetative debris by grinding at the DMS.
3. Reduction of C&D debris at the DMS.
4. Loading and transport of reduced vegetative debris to the final disposal site.
5. Loading and transport of C&D debris to the final disposal site

c. The city shall pay the cost of final disposal.

4.0 Additions & Deletions:

The City, by written notice from the City Purchasing Agent to the Contractor, at any time during the term of this contract, may add or delete like or similar equipment, supplies, locations and/or services to the list of equipment, supplies, locations, and/or services to be provided. Any such written notice shall take effect on the date stated in the notice from the City. Similar equipment, supplies, services, or locations added to the contract shall be in accordance with the contract specification/scope of services, and the charges or rates for items added shall be the same as specified in the fee schedule. In the event that the additional equipment, supplies, locations and/or services are not identical to the item(s) already under contract, the charges therefor will then be the Contractor's normal and customary charges or rates for the equipment, supplies, locations and/or services classified in the fee schedule.

5.0 ESTIMATED QUANTITIES NOT GUARANTEED

The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of disaster debris removal services during the term of this contract. The quantities may vary depending upon the actual needs of the user Department. The quantities specified herein are good faith estimates of usage during the term of this contract. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing/requiring all the quantities specified herein.

6.0 WARRANTY OF SERVICES

- a) *Definitions:* "Acceptance" as used in this clause, means the act of an authorized representative of the City by which the City assumes for itself, approval of specific services as partial or complete performance of the contract.

"Correction" as used in this clause, means the elimination of a defect.

- b) Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by the City. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.

- c) If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and

any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.

- d) If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

EXHIBIT "B"

PERFORMANCE BOND

THE STATE OF TEXAS :

 :

COUNTY OF HARRIS :

_____, ("Principal") and _____
("Surety"), shall pay to the City of Houston, Texas ("City"), the sum of \$ _____ in
accordance with the terms and conditions stated below:

On or about this date, the Principal executed a _____ Agreement in
writing with the City for _____ ("Agreement"),
which is incorporated into this Bond.

The conditions of this obligation are that if the Principal performs its obligations under
the terms of the Agreement and this Bond in all respects, then this obligation is void and has no
further force and effect; otherwise this obligation remains in effect and the sum of
\$ _____ is payable to the City on demand.

The Surety relieves the City and its representatives from the exercise of any diligence
whatever in securing the Principal's compliance with the terms of the Agreement, and the Surety
waives any notice to it of the Principal's default or delay in the performance of the Agreement.
The Surety shall take notice of and is held to have knowledge of all acts or omissions of the
Principal, its agents, and representatives in all matters pertaining to the Agreement.

The City and its representatives may at any time, without notice to the Surety, make any
changes in the terms and conditions of the Agreement, or extend it, and may add to or deduct
from the Principal's obligations under the Agreement. Such changes, if made, do not in any way
relieve, release, condition, or limit the obligation in this Bond and undertaking or release the
Surety therefrom.

**SURETY AND PRINCIPAL AGREE TO AND SHALL DEFEND, INDEMNIFY, AND
HOLD HARMLESS THE CITY, ITS AGENTS, AND REPRESENTATIVES FROM ALL
CLAIMS, CAUSES OF ACTION, LIABILITIES, DAMAGES, FINES, AND EXPENSES
ARISING OUT OF OR RESULTING FROM ANY FAILURE ON THE PART OF THE
PRINCIPAL, ITS AGENTS, AND REPRESENTATIVES, TO FULLY PERFORM UNDER
THE AGREEMENT, INCLUDING ANY CHANGES OR EXTENSIONS TO IT.**

If the City brings any suit or other proceeding at law on the Agreement or this Bond, or
both, the Principal and the Surety shall pay to the City the additional sum of 10 percent of
whatever amount the City recovers, which sum of 10 percent is agreed by all parties to be
indemnity to the City for the expense of and time consumed by its City Attorney, his or her
assistants, and office staff, and other costs and damages to the City. The amount of 10 percent is
fixed and liquidated by the parties because the exact damage to the City would be difficult to
ascertain.

This Bond and all obligations created under it shall be performable in Harris County, Texas, and all are non-cancelable. This Bond must be automatically renewed annually on the anniversary of the effective date of the Bond for the term of the Agreement and any extensions, unless the Surety gives the Principal and the City 30 days written notice before the renewal date that the Surety will not renew this Bond, in which case the Principal shall provide the City with a replacement bond (in the same form as this Bond) before the renewal date. The provisions of V.T.C.A., Government Code Section 2253, as amended, control even though the Statute may not be applicable.

All notices required or permitted by this Bond must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out on the signature page of this Bond or at such other address as the receiving party designates by proper notice to the sending party.

This Bond is effective on _____ and is binding on the Principal and the Surety, their heirs, executors, administrators, successors and assigns, jointly and severally.

EXECUTED in multiple originals this _____ day of _____, 20_____.

ATTEST/SEAL: (if a corporation)

WITNESS: (if not corporation)

(Name of Principal)

(Address of Principal)

By: _____

Name:

Title:

Date:

By: _____

Name:

Title:

Date:

ATTEST/SEAL

SURETY WITNESS:

(Name of Surety)

(Address of Surety)

By: _____

Name:

Title:

Date:

By: _____

Name:

Title:

Date:

REVIEWED:

This Bond has been reviewed as to form by the undersigned Paralegal and has been found to meet established Legal Department criteria.

Date

Paralegal

EXHIBIT "C"
EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "D"
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 the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

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

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

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

Date _____

Contractor Name _____

Signature _____

Title _____

EXHIBIT "E"
DRUG POLICY COMPLIANCE DECLARATION

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

_____ (Contractor or Vendor)
 (Name of Company)

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

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

_____ Initials A written Drug Free Workplace Policy has been implemented and employees notified.
 The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

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

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

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

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

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

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

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

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

 (Date)

 (Typed or Printed Name)

 (Signature)

 (Title)

EXHIBIT "F"
**Contractor's Certification Of No Safety Impact Positions
In Performance Of A City Contract**

I, _____
(Name)(Print/Type) **(Title)**

as an owner or officer of _____ (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has no employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Contractor agrees and covenants that it shall immediately notify the City's Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

Date

Contractor Name

Signature

Title

**CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES
FOR CONTRACTORS**

I, _____ as an
(NAME) **(PRINT/TYPE)**

owner or officer of _____ (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifteen (15) employees during any 20-week period during a calendar year and also certify that Contractor has no employee safety impact positions as defined in 5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

DATE

CONTRACTOR NAME

SIGNATURE

TITLE

**EXHIBIT G
MANIFEST**

CITY OF HOUSTON LOAD TICKET	
Ticket Number: 000001	
Contract Number:	
Contractor's Name:	
Date:	
Driver's Name & T.D.L #:	
Truck License Number:	
Measured Bed Capacity in Cubic Yards:	
Pickup Location:	
Time:	
Debris Classification:	
<input type="checkbox"/>	Burnable (Clean Woody Debris)
<input type="checkbox"/>	Non-Burnable (Treated Lumber, Metals, C&D)
<input type="checkbox"/>	Mixed (Burnable and Non-Burnable)
<input type="checkbox"/>	Other (Define)
Printed Name of City Loading Site Inspector:	
Signature:	
Debris Disposal Site Location:	
Time:	
Estimated Quantity of Debris on Truck:	Cubic Yards
Printed Name of City Disposal Site Inspector:	
Signature:	
Remarks:	

Sample Manifest

EXHIBIT "H"

MWBE SUBCONTRACT TERMS

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

2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of 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 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 concluded by the parties to this subcontract, and as evidenced by their signature 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 Affirmative Action Division.

Upon submittal of the matter to arbitration 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.

In the event the American Arbitration Association no longer administers Affirmative Action 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.

e. All arbitrations shall be conducted in Houston, Texas, unless the parties agree to a different location.

EXHIBIT I

DRUG DETECTION AND DETERRENCE PROCEDURES FOR CONTRACTORS

- (a) It is the policy of the City to achieve a drug-free workforce and to provide a workplace that is free from the use of illegal drugs and alcohol. It is also the policy of the City that the manufacture, distribution, dispensation, possession, sale or use of illegal drugs or alcohol by contractors while on City premises is prohibited. By executing this Contract, Contractor represents and certifies that it meets and shall comply with all the requirements and procedures set forth in the Mayor's Policy on Drug Detection and Deterrence, City Council Motion No. 92-1971 ("Mayor's Policy") and the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), both of which are on file in the Office of the City Secretary.
- (b) Confirming its compliance with the Mayor's Policy and Executive Order, Contractor, as a condition precedent to City's obligations under this Contract, will have filed with the Contract Compliance Officer for Drug Testing ("CCODT"), prior to execution of this Contract by the City, (i) a copy of its drug-free workplace policy, (ii) the Drug Policy Compliance Agreement substantially in the format set forth in Attachment "A" to the Executive Order, together with a written designation of all safety impact positions, and (iii) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the format set forth in Attachment "C" to the Executive Order. If Contractor files written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every six (6) months during the performance of this Contract or upon the completion of this Contract if performance is less than six (6) months, a Drug Policy Compliance Declaration in a form substantially similar to Attachment "B" to the Executive Order. The Drug Policy Compliance Declaration shall be submitted to the CCODT within thirty days of completion of this Contract. The first six (6) month period shall begin to run on the date City issues its notice to proceed hereunder or if no notice to proceed is issued, on the first day Contractor begins work under this Contract.
- (c) Contractor shall have the continuing obligation to file with the CCODT written designations of safety impact positions and Drug Policy Compliance Declarations at anytime during the performance of this Contract that safety impact positions are added if initially no safety impact positions were designated. Contractor also shall have the continuing obligation to file updated designations of safety impact positions with the CCODT when additional safety impact positions are added to Contractor's employee work force.
- (d) The failure of Contractor to comply with the above Sections shall be a breach of this Contract entitling City to terminate in accordance with Article IV.

EXHIBIT "J"

Contract Fee Schedule

Group 1 - Rights-of-Way Vegetative Collection Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
1	0-15 miles to disposal site	per yard	\$6.88
2	16-30 miles to disposal site	per yard	\$8.96
3	31-60 miles to disposal site	per yard	\$15.88

Group 2 - Private Property Vegetative Collection Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
4	0-15 miles to disposal site	per yard	\$9.18
5	16-30 miles to disposal site	per yard	\$10.18
6	31-60 miles to disposal site	per yard	\$17.88

Group 3 - Rights of Way Construction and Demolition Collection Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
7	0-15 miles to disposal site	per yard	\$7.24
8	16-30 miles to disposal site	per yard	\$10.24
9	31-60 miles to disposal site	per yard	\$17.24

Group 4 - Cutting Partially Uprooted or Split Trees (Leaners)

Item #	Description	Unit of Measure	Unit Price
10	Partially Uprooted Leaner (Price is inclusive of excavating the root ball and placing it in the ROW) Diameter of tree at 2 feet from base. LESS THAN 24 INCHES.	per tree	\$25.00
11	Partially Uprooted Leaner (Price is inclusive of excavating the root ball and placing it in the ROW) Diameter of tree at 2 feet from base. 24-36 INCHES.	per tree	\$50.00
12	Partially Uprooted Leaner (Price is inclusive of excavating the root ball and placing it in the ROW) Diameter of tree at 2 feet from base. GREATER THAN 36 INCHES	per tree	\$75.00
13	Split Leaner (No exposed root ball) Price is inclusive of flush cutting the tree trunk. (Per Specifications) - Diameter of tree at 2 feet from base. LESS THAN 24 INCHES	per tree	\$25.00
14	Split Leaner (No exposed root ball) Price is inclusive of flush cutting the tree trunk. (Per Specifications) - Diameter of tree at 2 feet from base. 24 - 36 INCHES	per tree	\$50.00
15	Split Leaner (No exposed root ball) Price is inclusive of flush cutting the tree trunk. (Per Specifications) - Diameter of tree at 2 feet from base. GREATER THAN 36 INCHES	per tree	\$75.00

Group 5 - Removal of Dangerous Hanging Limbs (Hangers) (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
16	Removal of Dangerous Hanging Lambs (Hangers)	per tree	\$72.50

Group 6 - Demolition and Collection Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
17	Demolition and Collection Rate (Per Specifications) per cubic yard		\$17.50

Group 7 - Hazardous Stump Removal and Collection Rate (Per Specifications)

Diameter of Stump at 2 feet from base.

Item #	Description	Unit of Measure	Unit Price
18	24-36 inches	per stump	\$98.00
19	36-48 inches	per stump	\$154.00
20	Greater than 48 inches	per stump	\$198.00

Group 8 - Stump Removal and Collection Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
21	Stump Removal and Collection Rate (Per Specifications) per cubic yard		\$12.24

Group 9 Sand Collection (Public Property) and Screening Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
22	Sand Collection (Public Property) and Screening Rate (Per Specifications) per cubic yard		\$7.98

Group 10 - Sand Collection (Private Property) and Screening Rate (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
23	Sand Collection (Private Property) and Screening Rate (Per Specifications) per cubic yard		\$8.98

Group 11 Backfill (Per Specifications)

Item #	Description	Unit of Measure	Unit Price
24	Backfill per specifications per cubic yard		\$18.10

Group 12

Item #	Description	Unit of Measure	Unit Price
25	Reduction of vegetative debris by burning at the DMS	cubic yard	\$2.14
26	Reduction of vegetative debris by grinding at the DMS	cubic yard	\$2.50
27	Reduction of C&D debris at the DMS	cubic yard	\$2.50
28	Loading and transport of reduced ground mulch to the final disposal site	cubic yard	\$2.50
29	Loading and transport of C&D debris to the final disposal site	cubic yard	\$3.78



**CERTIFICATION OF AGREEMENT TO
COMPLY WITH PAY OR PLAY PROGRAM**

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

Contractor Address: _____

Project No.: [GFS/CIP/AIP/File No.] _____

Project Name: [Legal Project Name] _____

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534, Contractor 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 each covered employee, including those of subcontractors subject to the program.

Yes No Contractor agrees to Pay \$1.00 per hour for work performed by covered employees, including covered subcontractors' employees, under the contract with the City.

Yes No Contractor agrees to offer health benefits to each covered employee, including covered subcontractors' employees that meet or exceed the following criteria:
(1) the employer will contribute no less than \$150 per employee per month toward the total premium cost; and
(2) the employee contribution, if any amount, will be no greater than 50% of the total premium cost.

Yes No Contractor agrees to pay of behalf of some covered employees and play on behalf of other covered employees, in accordance with program requirements, including subcontractors' employees, if applicable.

Yes No Contractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program provisions.

Yes No For Prime Contractors Only: Contractor will file compliance reports with the City, which will include activity for subcontractors subject to the program, in the form and to the extent requested by the administering department or the Affirmative Action and Contract Compliance Office. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records.

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

CONTRACTOR (Signature)

DATE

NAME AND TITLE (Print or type)