

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 this reference.
- Other – Grant Funds Available.

Date: 9-2, 2014

*Ronald C. Green*  
City Controller of the City of Houston, Texas

FUND REF: 8300-2000-520110 AMOUNT: \$ 221,907.60 ENCUMB. NO.: 45-204842

*MS*  
*MS*  
By OA 46-12907

City of Houston, Texas Ordinance No. 2014-809

AN ORDINANCE AWARDED A CONTRACT TO THE BEST RESPONDENT ARCADIS U.S., INC. FOR COMBINED UTILITY SYSTEM - WATER AND WASTEWATER RATE STUDY FOR THE DEPARTMENT OF PUBLIC WORKS AND ENGINEERING ~~CONTAINING PROVISIONS RELATING TO THE SUBJECT;~~ CONTAINING 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 contract described in the title of this ordinance, the City Council hereby finds and determines that the best proposal was submitted by the Contractor named in the title hereof in the total amount of \$221,907.60 (which amount is only an estimate, if unit prices are included in the bid proposal of said bidder) and that such bid is the most advantageous for the City.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements or other undertaking described in the title of this ordinance, 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 contract 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 3rd day of September, 2014.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor of the City of Houston, Texas.

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is SEP 09 2014.

  
\_\_\_\_\_  
City Secretary

(Prepared by Legal Dept.

(ALC/dg 8/27/2014)

Assistant City Attorney

(Requested by Calvin D. Wells, City Purchasing Agent, Finance Department)

(L.D. File No. 0801400111001)

G:\CONTRACT\DLG\ALC\Ordinances\Arcadis US Ordinance.doc

*Angie Cabell*

AYE	NO	
✓		MAYOR PARKER
....	....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
	ABSENT-ON PERSONAL BUSINESS	PENNINGTON
✓		GONZALEZ
	ABSENT	GALLEGOS
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
	ABSENT	KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	



B. Table Of Contents

This Agreement consists of the following sections:

**TABLE OF CONTENTS**

<b>I.</b>	<b>PARTIES</b>	
A.	Address.....	1
B.	Table Of Contents.....	2
C.	Parts Incorporated.....	4
D.	Controlling Parts.....	4
E.	Signatures .....	5
<b>II.</b>	<b>DEFINITIONS .....</b>	<b>6</b>
<b>III.</b>	<b>DUTIES OFCONSULTANT. ....</b>	<b>7</b>
A.	Scope of Services .....	7
B.	Performance .....	9
C.	RELEASE.....	10
D.	INDEMNIFICATION .....	10
E.	INDEMNIFICATION PROCEDURES.....	11
F.	Insurance .....	13
G.	Warranties.....	16
H.	Confidentiality - Protection of City's Interest.....	17
I.	Licenses and Permits .....	17
J.	Compliance with Laws .....	17
K.	Compliance with Equal Opportunity Ordinance.....	17
L.	MWBE Compliance.....	17
M.	Pay or Play.....	18
N.	Drug Abuse Detection and Deterrence .....	18
<b>IV.</b>	<b>DUTIES OF CITY .....</b>	<b>20</b>
A.	Payment Terms .....	20
B.	Taxes.....	20
C.	Method of Payment.....	20
D.	Method of Payment - Disputed Payments .....	20
E.	Limit of Appropriation.....	21
F.	Changes.....	22
G.	Access to Site .....	24
H.	Access to Data.....	24
<b>V.</b>	<b>TERM AND TERMINATION .....</b>	<b>24</b>
A.	Contract Term.....	24
B.	Termination for Convenience by City .....	24
C.	Termination for Cause .....	25

<b>VI.</b>	<b>MISCELLANEOUS PROVISIONS.....</b>	<b>26</b>
<b>A.</b>	<b>Independent Consultant .....</b>	<b>26</b>
<b>B.</b>	<b>Force Majeure .....</b>	<b>26</b>
<b>C.</b>	<b>Severability .....</b>	<b>28</b>
<b>D.</b>	<b>Entire Agreement.....</b>	<b>28</b>
<b>E.</b>	<b>Written Amendment.....</b>	<b>28</b>
<b>F.</b>	<b>Applicable Laws .....</b>	<b>28</b>
<b>G.</b>	<b>Notices .....</b>	<b>29</b>
<b>H.</b>	<b>Non-Waiver .....</b>	<b>29</b>
<b>I.</b>	<b>Inspections and Audits .....</b>	<b>29</b>
<b>J.</b>	<b>Enforcement .....</b>	<b>29</b>
<b>K.</b>	<b>Survival.....</b>	<b>30</b>
<b>L.</b>	<b>Publicity .....</b>	<b>30</b>
<b>M.</b>	<b>Risk of Loss.....</b>	<b>30</b>
<b>N.</b>	<b>Parties in Interest.....</b>	<b>30</b>
<b>O.</b>	<b>Successors and Assigns .....</b>	<b>30</b>
<b>P.</b>	<b>Contractor's Debt.....</b>	<b>31</b>

**EXHIBITS**

- "A" SCOPE OF SERVICES
- "B" SCHEDULE OF WORK
- "C" EQUAL EMPLOYMENT OPPORTUNITY
- "D" MWBE SUBCONTRACT TERMS--OMITTED
- "E" DRUG POLICY COMPLIANCE AGREEMENT
- "F" DRUG POLICY COMPLIANCE DECLARATION
- "G" CONSULTANT'S CERTIFICATION OF NO SAFETY  
IMPACT POSITIONS IN PERFORMANCE OF A CITY CONTRACT
- "H" SCHEDULE OF PAYMENTS

C. Parts Incorporated

The above described exhibits are incorporated into this Agreement.

D. Controlling Parts

If a conflict among the sections and exhibits arises, the Sections control over the Exhibits.

E. Signatures

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

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

**ARCADIS U.S., INC.**

By: Jody K. Debs  
Name: Jody K. Debs  
Title: Secretary



By: X Mary Ann Pennington-Neidert  
Name: Mary Ann Pennington-Neidert  
Title: Treasurer

**ATTEST/SEAL:**

**CITY OF HOUSTON, TEXAS**  
Signed by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

**APPROVED:**

**COUNTERSIGNED BY:**

Dale A. Rudick  
Director, Department of Public Works  
& Engineering

\_\_\_\_\_  
City Controller

**APPROVED AS TO FORM:**

**DATE COUNTERSIGNED:**

Angie Colwell  
Assistant City Attorney  
L.D. File No. 0511300011004

\_\_\_\_\_

## II. DEFINITIONS

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

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

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

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

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

"Director" means the Director of the Department of Public Works and Engineering, or the person he or she designates.

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

"Notice to Proceed" means a written communication from the Director to Consultant instructing Consultant to begin performance.

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

### III. DUTIES OF CONSULTANT

#### A. Scope of Services

(1) Services in General. In consideration of the payments specified in this Agreement, Consultant shall perform the services described in Exhibit "A."

(2) Changes. At any time during the Contract Term, the City Purchasing Agent or Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Consultant shall furnish the services or deliverables in the applicable Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

(a) The City Purchasing Agent or Director will issue the Change Order in substantially the following form:

#### CHANGE ORDER

TO: [Name of Consultant]

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

DATE: [Date of Notice]

SUBJECT: Change Order under the Agreement between the City and [Name of Consultant] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Consultant provide the following:

[Here describe the additions to or changes to the equipment or services and the

Change Order Charges applicable to each.]

Signed:

[Signature of City Purchasing Agent or Director]

- (b) The City Purchasing Agent or Director may issue more than one Change Order, subject to the following limitations:
- City Council expressly authorizes the City Purchasing Agent or Director to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.
  - If a Change Order describes items that Consultant is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Consultant.
  - The total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.
- (c) Whenever Consultant receives a Change Order, Consultant shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Consultant shall complete the work within the time prescribed. If no time for completion is prescribed, Consultant shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Consultant is required to perform under this Agreement, Consultant may request a time extension for the completion of the work. The City

Purchasing Agent's or Director's decision regarding a time extension is final.

- (d) A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.
- (e) Change Orders are subject to the Allocated Funds provisions of this Agreement.

**B. Coordinate Performance**

(1) Coordinate Performance. Consultant shall coordinate its performance with the Director and other persons that the Director designates. Consultant shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

(2) Timing of Performance. The Director shall provide Consultant a written Notice to Proceed specifying a date to begin performance (Start Date). Consultant shall begin its performance no later than the Start Date. Consultant shall be responsible to manage and deliver the Project within 24 weeks after the Start Date as detailed in the Work Plan & Schedule attached hereto as Exhibit "B". Consultant acknowledges that time is of the essence.

(3) Time Extensions. If Consultant requests an extension of time to complete its performance, then the Director may, in his or her sole discretion, extend the time. The extension must be in writing but does not require amendment of this Agreement.

Consultant is not entitled to damages for delay(s) regardless of the cause of the delay(s).

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

**C. RELEASE**

**CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.**

**D. INDEMNIFICATION**

**CONSULTANT AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND**

ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

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

CONSULTANT SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONSULTANT'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONSULTANT SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

**E. INDEMNIFICATION PROCEDURES**

- (1) Notice of Claims. If the City or Consultant receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party

shall give written notice to the other party within 30 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 estop 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 30 day period, it does not waive any right to indemnification except to the extent that Consultant is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims.

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

F. Insurance. Consultant shall maintain in effect certain insurance coverage at all times during the term of this Contract and any extensions thereto, which is described as follows:

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

(COVERAGE)	(LIMIT OF LIABILITY)
Workers Compensation	Statutory for Workers' Compensation
Employee's Liability	Bodily Injury by Accident \$100,000 (each accident) Bodily Injury by Disease \$100,000 (policy limit) Bodily Injury by Disease \$100,000 (each employee)
Commercial General Liability: Bodily and Personal Injury; Products and Complete Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$500,000 each Occurrence, and \$1,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit
Professional Liability Coverage	\$1,000,000 per claim/aggregate

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

If professional liability coverage is required and is written on a "claims made" basis, the Consultant shall also provide:

- (a) proof of renewal each year for 2 years after substantial completion of the Project; or
- (b) in the alternative, evidence of extended reporting period coverage for 2 years after substantial completion; or
- (c) a project liability policy for the Project covered by this Contract with a duration of 2 years after substantial completion.

(2) Insurance Certificates. The Director may approve the form of the insurance certificates, but nothing the Director does or fails to do relieves Consultant from its duties to provide the required coverage under this Contract. The Director's actions or inactions do not waive the City's rights under this Contract.

(3) Issuers of Policies. The issuer of any policy shall have (1) a Certificate of Authority to transact business in Texas, or (2) 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 of Best's Key Rating Guide, and the issuer must be an eligible nonadmitted insurer in the State of Texas.

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

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

(6) Cancellation.

- (a) CONSULTANT SHALL GIVE 30 DAY'S WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELLED, MATERIALLY CHANGED OR NON-RENEWED.
- (b) Consultant shall give written notice to the Director within 5 days of the date on which total claims by any party against Consultant reduce the aggregate amount of coverage below the amounts required by this Contract.
- (c) In the alternative to (b) above, the policy may contain an endorsement establishing a policy aggregate for the particular project or location that is the subject of this Contract.

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

(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 Contract.

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

(10) Subcontractors. Consultant shall require all Subcontractors whose subcontracts exceed \$100,000 to provide proof of general liability and, if appropriate, professional liability coverage meeting all requirements stated above except amount. The amount must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

(11) Delivery of Policies. At the time this Contract is signed, Consultant must furnish to the Director certificates of insurance in substantially the form shown in Exhibit "G." These certificates must bear the project name for which they are issued. If requested by the Director, Consultant must provide the originals of all policies referred to above, or copies certified by the agent or attorney-in-fact issuing them.

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

- (a) immediately suspend Consultant from any further performance under this Contract and begin procedures to terminate for default, or
- (b) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Consultant under this Contract. The City shall never waive or be stopped to assert its right to terminate this Contract because of its acts or omissions regarding its review of insurance documents.

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

By written agreement, the Consultant shall require each subcontractor for Project engineering services to be bound by the requirements of this Section.

G. Warranties

Consultant's performance shall conform to the professional standards prevailing in Harris County, Texas with respect to the scope, quality, due diligence, and care of the services and

products Consultant provides under this Agreement.

H. Confidentiality - Protection of City's Interest

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

I. Licenses and Permits

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

J. Compliance with Laws

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

K. Compliance with Equal Opportunity Ordinance

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

L. MWBE Compliance

Consultant shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Consultant shall make good faith efforts to award subcontracts or supply

agreements for at least 24% of the value of this Agreement to MWBEs. Consultant acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunity and will comply with them.

Consultant shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration to be conducted in Houston, Texas, if directed to do so by the Office of Business Opportunity Director. If Consultant is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

M. Pay or Play

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

N. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Consultant shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Consultants, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

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

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit “E”, together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit “G”.

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

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

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

### **III DUTIES OF CITY**

#### **A. Payment Terms**

The City shall pay and Consultant shall accept fees at the rates shown in Exhibit “H” for all services rendered and the Deliverables furnished by Consultant. The fees must only be paid

from Allocated Funds, as provided below.

B. Taxes

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

C. Method of Payment

The City shall pay Consultant the rates shown in Exhibit "H" for all of Consultant's services under this Agreement, but such payments may only be made from Allocated Funds, as provided below.

The City shall pay Consultant on the basis of invoices submitted by Consultant and approved by the Director, showing the specific tasks completed in the preceding month and the corresponding unit prices. The City shall make payments to Consultant at its address for notices within 30 days of receipt of an approved invoice.

D. Method of Payment - Disputed Payments

If the City disputes any items in an invoice Consultant submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Consultant of the dispute and request remedial action. After the dispute is settled, Consultant shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

E. Limit of Appropriation

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

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$184,923 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies.

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

**“NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS**

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

\$ \_\_\_\_\_”

(4) City Council delegates to the Director the authority to approve up to \$448,000 in supplemental allocations for this Agreement without returning to Council.

(5) The Original Allocation plus all supplemental allocations are the Allocated Funds.

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

F. Changes

(1) At any time during the term of this Agreement, the Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Consultant shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

(2) The Director will issue the Change Order in substantially the following form:

**CHANGE ORDER**

TO: [Name of Consultant]  
FROM: City of Houston, Texas (the "City")  
DATE: [Date of Notice]  
SUBJECT: Change Order under the Agreement between the City and [Name of Consultant] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Consultant provide the following:

**[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]**

Signed:

[Signature of Director]

(3) The Director may issue more than one Change Order, subject to the following limitations:

- (a) Council expressly authorizes the Director to approve a Change Orders up to \$50,000. A Change Order of more than \$50,000 must be approved by the City Council.
- (b) If a Change Order describes items that Consultant is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Consultant.

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

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

(6) Change Orders are subject to the Allocated Funds provisions of this Agreement.

G. Access to Site

Consultant may enter and leave the premises at all reasonable times without charge. Consultant and its employees may use the common areas and roadways of the premises where to perform the services together with all facilities, equipment, improvements, and services provided in connection with the premises for common use. This excludes parking for Consultant's personnel. Consultant shall repair any damage caused by it or its employees as a result of its use of the common areas.

H. Access to Data

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

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

## V. TERM AND TERMINATION

A. Contract Term

This Agreement is effective on the Countersignature Date and remains in effect until completed.

B. Termination for Convenience by City

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

On receiving the notice, Consultant shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and

subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Consultant shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Consultant for services actually performed, but not already paid for, in the same manner as prescribed in Article III unless the fees exceed the allocated funds remaining under this Agreement.

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

C. Termination for Cause

Either party may terminate its performance under this Agreement if the other party defaults and fails to cure the default after receiving notice of it. Default occurs if a party fails to perform one or more of its material duties under this Agreement. If a default occurs, the injured party shall deliver a written notice to the defaulting party describing the default and the proposed termination date. The date must be at least 30 days after Consultant's receipt of the notice. The injured party, at its sole option, may extend the proposed termination date to a later date. If the defaulting party cures the default before the proposed termination date, the proposed termination is ineffective. If the defaulting party does not cure the default before the proposed termination date, the injured party may terminate its performance under this Agreement on the termination date. The Director shall act on behalf of the City to notify Consultant of a default and to effect

termination.

## VI. MISCELLANEOUS

### A. Independent Consultant

Consultant is an independent contractor and shall perform the services provided for in this Agreement in that capacity. The City has no control or supervisory powers over the manner or method of Consultant's performance under this Agreement. All personnel Consultant uses or provides are its employees or subcontractors and not the City's employees, agents, or subcontractors for any purpose whatsoever. Consultant is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes and all worker's compensation benefits coverage.

### B. Force Majeure

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

expensive or impractical. Force Majeure does not entitle Consultant to extra Reimbursable Expenses or payment.

2. This relief is not applicable unless the affected party does the following:

- (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and
- (b) provides the other party with prompt written notice of the cause and its anticipated effect.

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

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

5. If the Force Majeure continues for more than 30 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Consultant. This termination is not a default or breach of this Agreement. **CONSULTANT WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

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

and qualified personnel during a strike.

C. Severability

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

D. Entire Agreement

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

E. Written Amendment

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Consultant. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

F. Applicable Laws

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

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

G. Notices

All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express

delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

H. Non-Waiver

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

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

I. Inspections and Audits

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

J. Enforcement

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

confidential by federal or State law or regulation.

K. Survival

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

L. Publicity

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

M. Risk of Loss

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

N. Parties In Interest

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

O. Successors and Assigns

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

P. Contractor's Debt

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

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

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**Combined Utility System Water and Wastewater Rate Study**

**Task 1 – Project Start-up**

Task 1.1

Provide list of financial, statistical, operating and engineering data needed to complete study.

Task 1.2

Facilitate Project Orientation Workshop that includes discussion of following items and document workshop discussion in technical memorandum:

- Study expectations
- Scope of services, new rates and possible rate structure
- Relevant City/CUS policies
- Study schedule
- Requested data
- Utility billing analysis
- Model format and organization
- Pricing criteria
- Volume Cases
- Coverage Ratio Target
- Pay-As-You-Go
- CIP funding cases
- Expand Base Charge Components

Task 1.3

Report all final hours and costs for this task.

**Task 2 - Customer Class Evaluation**

Consultant will evaluate historical customer class water and wastewater service characteristics.

Task 2.1

Identify current customer classes in City utility billing database.

Task 2.2

Identify appropriate 12-month period to analyze customer data by class, customer account, and meter size.

Task 2.3

Provide format for City to use to download utility billing information.

Task 2.4

Analyze City-provided data to determine class usage characteristics.

Task 2.5

Compare revenue under existing rates generated from billing data with revenue recorded in independent financial reports.

Task 2.6

Report all final hours and costs for this task.

**Task 3 – Financial Plan**

Consultant will develop separate financial plans for water and wastewater utilities for a 5-year study period.

Task 3.1

Identify assumptions used in development of financial plan including:

- Growth in number of accounts for each class
- Trends in billable usage per account for each class
- Inflation in major cost elements such as capital costs, salaries, benefits, electricity and chemicals
- Projected Volume Cases
- Changes in utility operations affecting O&M
- Terms of issuing debt (payment period, interest rate, type of loan)
- Frequency of rate adjustments
- Details for Base Charge Components

Task 3.2

Forecast revenue under existing rates for each class using class usage characteristics developed in Task 2.

Task 3.3

Forecast revenues from impact fees recognizing growth in number of water and wastewater customers and probable impact fees.

Task 3.4

Forecast revenues from miscellaneous sources.

Task 3.5

Review and evaluate capital improvement program and CIP scenarios.

Task 3.6

Review and evaluate funding options for 5-year capital improvement program.

Task 3.7

Forecast revenue requirements including:

- Operation and maintenance expense (O&M)
- Routine capital outlay
- Debt service on existing and proposed bonds and loans
- Inter- and intra-fund transfers
- Pay-As-You-Go Requirements
- Capital CIP Requirement
- Coverage Ratio Target
- Resultant Water and sewer overhead factors

Task 3.8

Conduct analysis to determine compliance with covenants and financial requirements with existing or proposed bond obligations and other debt instruments.

Task 3.9

Summarize projections of operating and capital costs in pro forma cash flows. Develop separate cash flows for operating and capital funding activities for each utility. Each cash flow should meet debt coverage requirements and satisfy cash reserves criteria.

Task 3.10

Facilitate Financial Plan Workshop that includes discussion of following items and document workshop discussion in technical memorandum:

- Assumptions.
- Financial criteria including debt service coverage, cash reserves, ability to meet annual revenue requirements and other criteria.
- Policies including frequency of rate adjustments, constraints on amount of revenue increase allowed without voter approval, outside City surcharges, debt service coverage, reserves and other policies.
- Up to three alternative financial plans that address differing levels of capital improvements, differing capital funding scenarios, differing growth projections and variance in other parameters.
- Discussion of water rate changes and sewer rate changes

Task 3.11

Report all final hours and costs for this task.

**Task 4 - Cost of Service Analysis**

Task 4.1

Select test year for cost of service analysis that is representative of future utility operations.

Task 4.2

Determine test year revenue requirements using either utility or cash based revenue requirements.

Task 4.3

Review customer classes evaluated in Task 2 to determine applicability to cost of service analysis

Task 4.4

Determine water utility class cost of service in accordance with the Base-Extra Capacity method supported by the American Water Works Association as follows:

- Assign test year revenue requirements to system components such as supply, treatment, transmission mains, storage, distribution mains, customer billing, meters and fire hydrants.
- Allocate assigned costs to functional cost components such as base, maximum day, maximum hour, direct fire protection, and customer. Add addition fixed charges.
- Determine test year class units of service such as annual usage, peak demands, number of accounts, number of equivalent meters, and number and size of public fire hydrants and private fire connections.
- Distribute functionalized costs to classes in proportion to their share of total service units.
- Compare class cost of service with revenue from existing rates to determine adjustment in class revenue to meet cost of service.

Task 4.5

Determine wastewater utility class cost of service using the Cost Causative method supported by the Water Environment Federation as follows:

- Assign test year revenue requirements to system components such as small collector mains, interceptors and force mains, lift stations, treatment, and customer billing.
- Allocate assigned costs to functional cost components such as volume, strengths, and customer.
- Determine test year class units of service such as annual treated and billable volume, strengths, and number of accounts.
- Distribute functionalized costs to classes in proportion to their share of total service units.
- Compare class cost of service with revenue from existing rates to determine adjustment in class revenue to meet cost of service.

#### Task 4.6

Facilitate Cost of Service Workshop to discuss cost of service allocations for water and wastewater utilities, as described in Tasks 4.4 and 4.5, and document workshop discussions in technical memorandum.

#### Task 4.7

Report all final hours and costs for this task.

### **Task 5 – Rate Design**

#### Task 5.1

Facilitate Rate Design Workshop that includes discussion of following items and document workshop discussion in technical memorandum:

- Class cost of service assumptions and findings
- Policies affecting rate design
- Existing rate structure
- Alternative rate structures
- Pricing criteria including revenue stability, equitability, conservation, and affordability

#### Task 5.2

Review historical development of existing rate structures.

#### Task 5.3

Identify up to three alternative rate structures for each utility.

#### Task 5.4

Develop cost of service rates for the test year that:

- Produce adequate revenue
- Equitably recover class cost of service
- Comply with City CUS policies – coverage ratios, pay-as-you-go, etc.
- Are easy to administer
- Are easy to understand by customers

#### Task 5.5

Develop alternative rates as necessary to transition to cost of service rates during study period that:

- Produce adequate revenue
- Comply with City policies

- Are easy to administer
- Are easy to understand by customers

**Task 5.6**

Calculate typical monthly bills under existing, cost of service and alternative rates.

**Task 5.7**

Report all final hours and costs for this task.

**Task 6- Benchmarking**

**Task 6.1**

Conduct benchmarking analysis of water and wastewater rates.

**Task 6.2**

Provide graphics and values report summarizing findings of benchmarking analysis.

**Task 6.3**

Report all final hours and costs for this task.

**Task 7 – Rate Study Documentation**

**Task 7.1**

Provide rate study data in 3-ring binders (and electronic format if requested) organized into following major sections:

- Customer evaluation
- Financial plan
- Cost of service
- Rate design

**Task 7.2**

Provide study data and calculations in electronic format.

**Task 7.3**

Provide references in calculations to source data.

**Task 7.4**

Provide 10 copies of draft study report that summarizes study assumptions, procedures, findings and recommendations.

**Task 7.5**

Facilitate WebEx Workshop to receive City revisions and finalize the study report and document workshop discussions in technical memorandum.

**Task 7.6**

Provide 10 copies of final study report.

**Task 7.7**

Report all final hours and cost for this task.

## **Task 8 – Presentation and Public Involvement**

### **Task 8.1**

Assist City Staff with preparation of presentation materials and participate in public information meeting: One meeting.

### **Task 8.2**

Report all final hours and costs for this task.

## **Task 9 –Model**

### **Task 9.1**

Revise model per City Staff's ease of input and output criteria.

### **Task 9.2**

Work with Client representatives throughout rate study on design and operation of Microsoft Excel model.

### **Task 9.3**

Conduct two half-day training sessions on use of model to assist City representatives in understanding:

- Financial planning and rate study process
- Model design and layout
- Key variables that support efficient "what-if" scenario development features of model
- How to update model with new budget, CIP, and revenue information and other what if variables
- Ensure COH staff can use the model

### **Task 9.4**

Deliver Microsoft Excel financial model and user manual to Client. The city acknowledges and agrees that this interactive financial model utilized by Consultant, and demonstrated to the City, is a proprietary and confidential Consultant service instrument/ and is to be used solely for the financial analysis and rate setting proposed by Consultant and is not be resold or otherwise used for secondary commercial gain.

### **Task 9.5**

Report all final hours and costs for this task.

Note: reporting of final hours and costs for a each completed task, please report prime and each MBWE separately.

**EXHIBIT "B"**  
**SCHEDULE OF WORK**

Work Task No.	Description	Labor							TOTAL HOURS	TOTAL LABOR	EXPENSES	Subconsultants				TOTALS
		Ivey PM \$225.00	Abdulah Analyst \$150.00	TBD Analyst \$135.00	Mastracchio O&A/QC \$250.00	Howard PIC \$225.00	Admin \$90.00	Pantheon Engineering \$150.00				Isari Consultants \$150.00	TOTAL SUBS	Red Oak Admin of Subj		
PM	Project Management	16.0	16.0					42.0	\$7,195			8.0	8.0	\$2,400	\$240	\$9,835
1	Study Orientation and Data Review															\$12,975
1.1	Data request list and review	1.0	2.0	6.0				9.0	\$1,335			8.0	6.0	\$1,800	\$180	
1.2	Project Orientation Workshop and documentation	10.5	13.0	2.0		2.0	2.0	29.5	\$5,213	\$1,500	8.0	8.0		\$2,400	\$240	
1.3	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
2	Customer Characteristics													\$0	\$0	
2.1	Customer class identification	0.5	2.0	4.0				6.5	\$953					\$0	\$0	\$26,128
2.2	Identification of typical billing data	0.5	1.0	2.0				3.5	\$533					\$0	\$0	
2.3	Prepare billing data template	1.0	1.0	4.0				6.0	\$915					\$0	\$0	
2.4	Analyze billing data to determine usage characteristics	4.0	12.0	18.0	1.0			35.0	\$5,380					\$0	\$0	
2.5	Compare revenue under existing rates	2.0	8.0	12.0	1.0			23.0	\$3,520			72.0		\$10,800	\$1,080	
2.6	Task completion report	0.5	1.0					2.0	\$308		18.0			\$2,400	\$240	
3	Revenue Requirements													\$0	\$0	
3.1	Identification of financial plan assumptions	1.0	2.0	2.0				5.0	\$795					\$0	\$0	\$31,610
3.2	Forecast revenue under existing rates by class	2.0	4.0	6.0				14.0	\$2,130			12.0		\$1,800	\$180	
3.3	Forecast impact fee revenue	0.5	1.0	2.0				3.5	\$533					\$0	\$0	
3.4	Forecast miscellaneous revenue	0.5	1.0	2.0				3.5	\$533					\$0	\$0	
3.5	Review and evaluate CP	2.0	2.0	2.0				6.0	\$1,020		4.0	4.0		\$1,200	\$120	
3.6	Review and evaluate CP funding options	2.0	2.0	2.0				6.0	\$1,020					\$0	\$0	
3.7	Forecast revenue requirements for study period	4.0	10.0	16.0				30.0	\$4,560					\$0	\$0	
3.8	Analyze financial metrics for policy compliance	2.0	2.0	2.0				6.0	\$1,020					\$0	\$0	
3.9	Prepare cash flows for study period	6.0	18.0	24.0	1.0			47.0	\$7,240					\$0	\$0	
3.10	Financial Plan Workshop and documentation	10.5	13.0	2.0		2.0	2.0	29.5	\$5,213	\$1,500	8.0	8.0		\$2,400	\$240	
3.11	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
4	Cost of Service Analysis													\$0	\$0	
4.1	Select cost of service test year(s)	0.5		1.0				1.5	\$248					\$0	\$0	\$22,375
4.2	Determine revenue requirements for test year(s)	4.0	4.0	12.0				20.0	\$3,120					\$0	\$0	
4.3	Review applicability of classes to cost of service	0.5		1.0				1.5	\$248					\$0	\$0	
4.4	Determine water utility cost of service	4.0	3.0	12.0	0.5			19.5	\$3,095		4.0	4.0		\$1,200	\$120	
4.5	Determine wastewater utility cost of service	4.0	3.0	10.0	0.5			17.5	\$2,825		4.0	4.0		\$1,200	\$120	
4.6	Cost of Service Workshop and documentation	10.5	13.0	4.0		4.0		31.5	\$5,753	\$1,500	8.0	8.0		\$2,400	\$240	
4.7	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
5	Rate Design													\$0	\$0	
5.1	Rate Design Workshop 1	10.5	13.0	2.0		2.0		27.5	\$5,033	\$1,500	8.0	8.0		\$2,400	\$240	\$22,375
5.2	Review historical development of existing rates	1.0	2.0	2.0				5.0	\$795					\$0	\$0	
5.3	Identify alternative rate structures	2.0	2.0	2.0				6.0	\$1,020					\$0	\$0	
5.4	Develop cost of service rates	2.0	4.0	10.0	0.5			16.5	\$2,525					\$0	\$0	
5.5	Develop alternative/transition rates	4.0	4.0	16.0	0.5			24.5	\$3,785					\$0	\$0	
5.6	Calculate typical monthly bills	2.0	4.0	8.0				14.0	\$2,130		16.0			\$0	\$0	
5.7	Task completion report	0.5	1.0				0.5	2.0	\$308					\$2,400	\$240	
6	Benchmarking / Rate Survey													\$0	\$0	
6.1	Conduct utility rate survey/benchmarking	4.0	4.0	4.0				12.0	\$2,040			20.0		\$3,000	\$300	\$6,945
6.2	Prepare graphical report summary of benchmarking	1.0	2.0			0.5		3.5	\$638			4.0		\$600	\$60	
6.3	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
7	Rate Study Documentation													\$0	\$0	
7.1	Provide rate study documentation binder	4.0	8.0				4.0	16.0	\$2,460		14.0			\$2,100	\$210	\$23,845
7.2	Provide electronic study data and calculations	2.0	4.0	4.0				10.0	\$1,590					\$0	\$0	
7.3	Provide references to data in calculations	1.0	2.0	4.0				7.0	\$1,065					\$0	\$0	
7.4	Provide 10 copies of draft study report	4.0	4.0	20.0	2.0	2.0	2.0	34.0	\$5,330		24.0			\$3,600	\$360	
7.5	Draft Report Workshop (WebEx) and documentation	2.5	3.0	4.0				9.5	\$1,553					\$300	\$30	
7.6	Provide 10 copies of final study report	2.0	2.0	8.0	2.0	2.0	2.0	18.0	\$2,960		12.0			\$1,800	\$180	
7.7	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
8	Presentation and Public Involvement													\$0	\$0	
8.1	Prepare for and attend one public meeting	10.0	2.0				1.0	13.0	\$2,640	\$750				\$0	\$0	\$3,698
8.2	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
9	Model Development													\$0	\$0	
9.1	Model revisions to improve inputs and reports	8.0	12.0	24.0	1.0			45.0	\$7,090					\$0	\$0	\$24,938
9.2	Work with City staff to improve model design	8.0	12.0	24.0	2.0			46.0	\$7,340					\$0	\$0	
9.3	Model training	10.0	12.0				2.0	24.0	\$4,230	\$1,500				\$0	\$0	
9.4	Deliver improved model and user manual	6.0	10.0	12.0				28.0	\$4,470					\$0	\$0	
9.5	Task completion report	0.5	1.0				0.5	2.0	\$308					\$0	\$0	
<b>SERVICES TOTAL</b>		<b>178.0</b>	<b>246.0</b>	<b>294.0</b>	<b>13.0</b>	<b>16.5</b>	<b>27.5</b>	<b>774.0</b>	<b>\$126,853</b>	<b>\$8,250</b>	<b>154.0</b>	<b>154.0</b>	<b>\$46,200</b>	<b>\$4,620</b>	<b>\$184,923</b>	

**EXHIBIT "C"**  
**EQUAL EMPLOYMENT OPPORTUNITY**

1. The Consultant, 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 Consultant, 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 Consultant, 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 Consultant, 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 Consultant, 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 Consultant'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 Consultant, 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 Consultant Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The Consultant, 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 Consultant, subcontractor, vendor, supplier, or lessee.
6. In the event of the Consultant'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 Consultant, 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 Consultant 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 Consultant 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 Consultant becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.
8. The Consultant 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 Consultant and each subcontractor.

**EXHIBIT "D"**

EXHIBIT "E"

DRUG POLICY COMPLIANCE AGREEMENT

I, Mary Ann Pennington-Neidert, Treasurer as an owner or officer of  
(Name) (Print/Type) (Title)  
ARCADIS U.S., Inc. (Consultant)  
(Name of Company)

have authority to bind Consultant 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 Consultant 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 Consultant 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 Consultants (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 Consultant 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.

8/22/2014  
Date

ARCADIS U.S., Inc.  
Consultant Name  
X [Signature]  
Signature  
Treasurer  
Title

EXHIBIT "F"

DRUG POLICY COMPLIANCE DECLARATION

I, Mary Ann Pennington-Neidert, Treasurer as an owner or officer of ARCADIS U.S., Inc. (Name of Company) (Consultant)

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

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_, 20\_\_\_\_.

X [Handwritten 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).

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

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

[N/A] 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 \_\_\_\_\_.

[N/A] From \_\_\_\_\_ to \_\_\_\_\_ the following test has occurred (Start date) (End date)

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

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

X [Handwritten 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.

8/22/14 (Date)

Mary Ann Pennington-Neidert (Typed or Printed Name) [Handwritten Signature] (Signature) Treasurer (Title)

EXHIBIT "G"

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

Mary Ann Pennington-Neidert, Treasurer  
(Name) (Title)

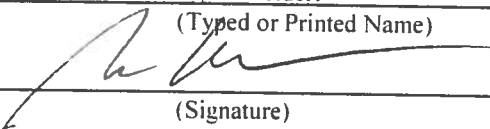
as an owner or officer of ARCADIS U.S., Inc. (Consultant)  
(Name of Company)

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

in performing Combined Utility System Water and Wastewater Rate Study.  
(Project)

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

8/22/14  
(Date)

Mary Ann Pennington-Neidert  
(Typed or Printed Name)  
X   
(Signature)  
Treasurer  
(Title)

**EXHIBIT "H"**  
**SCHEDULE OF PAYMENTS**