

# H-GAC

Houston-Galveston Area Council  
P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

---

Goods and Services Agreement - CompuCycle, Inc. - Community and Environmental -- 20-00765

## GENERAL PROVISIONS

This Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and CompuCycle, Inc., hereinafter referred to as the Contractor, having its principal place of business at 8019 Kempwood Dr., Houston, TX 77055.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Agreement; and

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

### **ARTICLE 1: LEGAL AUTHORITY**

The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Contractor to the terms of this Agreement and any subsequent amendments hereto.

### **ARTICLE 2: APPLICABLE LAWS**

The Contractor agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

### **ARTICLE 3: INDEPENDENT CONTRACTOR**

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Contractor the agent, servant or employee of H-GAC, the State of Texas or the United States Government. Employees of the Contractor are subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

### **ARTICLE 4: WHOLE AGREEMENT**

The General Provisions, Special Provisions, and Attachments, as provided herein, constitute the complete Agreement ("Agreement") between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

### **ARTICLE 5: SCOPE OF SERVICES**

The services to be performed by the Contractor are outlined in an Attachment to this Agreement.

**ARTICLE 6: PERFORMANCE PERIOD**

This Agreement shall be performed during the period which begins Jun 01 2020 and ends May 31 2022. All services under this Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 14, which shall be fully executed by both parties to this Agreement.

**ARTICLE 7: PAYMENT OR FUNDING**

Payment provisions under this Agreement are outlined in the Special Provisions.

**ARTICLE 8: REPORTING REQUIREMENTS**

If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may terminate this agreement with notice as identified in Article 15 of these General Provisions. H-GAC has final determination of the adequacy of performance and reporting by Contractor. Termination of this agreement for failure to perform may affect Contractor's ability to participate in future opportunities with H-GAC. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement.

Any additional reporting requirements shall be set forth in the Special Provisions of this Agreement.

**ARTICLE 9: INSURANCE**

Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as outlined and defined in the attached Special Provisions.

**ARTICLE 10: SUBCONTRACTS and ASSIGNMENTS**

Except as may be set forth in the Special Provisions, the Contractor agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Agreement or any right, title, obligation or interest it may have therein to any third party without prior written approval of H-GAC. The Contractor acknowledges that H-GAC is not liable to any subcontractor or assignee of the Contractor. The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Contractor. Contractor shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Contractor's compliance, or that of Contractor's subcontractors, with any laws or regulations.

**ARTICLE 11: AUDIT**

Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Agreement, such audit may be performed by the H-GAC local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be conducted in accordance with applicable professional standards and practices. The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any findings that result in monetary obligations to H-GAC.

**ARTICLE 12: EXAMINATION OF RECORDS**

The Contractor shall maintain during the course of the work complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or

off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

The Contractor further agrees that the examination of records outlined in this article shall be included in all subcontractor or third-party agreements.

### **ARTICLE 13: RETENTION OF RECORDS**

The Contractor and its subcontractors shall maintain all records pertinent to this Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final payment or until all audit findings have been resolved. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

### **ARTICLE 14: CHANGES AND AMENDMENTS**

- A. Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal or state law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.
- B. To ensure the legal and effective performance of this Agreement, both parties agree that any amendment that affects the performance under this Agreement must be mutually agreed upon and that all such amendments must be in writing. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such amendments shall have the effect of qualifying the terms of this Agreement and shall be binding upon the parties as if written herein.

### **ARTICLE 15: TERMINATION PROCEDURES**

The Contractor acknowledges that this Agreement may be terminated for Convenience or Default.

- A. *Convenience*  
H-GAC may terminate this Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Contractor. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Contractor may cancel or terminate this Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC.

- B. *Default*

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Agreement, in any one of the following circumstances:

- (1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreements that completion of services herein specified within the Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period often (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

#### **ARTICLE 16: SEVERABILITY**

H-GAC and Contractor agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

#### **ARTICLE 17: FORCE MAJEURE**

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

#### **ARTICLE 18: CONFLICT OF INTEREST**

No officer, member or employee of the Contractor or subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

#### **ARTICLE 19: FEDERAL COMPLIANCE**

Contractor agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. Additionally, for work to be performed under the Agreement or subcontract thereof, including procurement of materials or leases of equipment, Contractor shall notify each potential subcontractor or supplier of the Contractor's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s)

applicable to any Federal funding for this Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CFR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), as set forth in Department of Labor Regulations at 20 CFR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

#### **ARTICLE 20: CRIMINAL PROVISIONS AND SANCTIONS**

The Contractor agrees to perform the Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Contractor agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Contractor shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Agreement or which would adversely affect the Contractor's ability to perform services under this Agreement.

#### **ARTICLE 21: INDEMNIFICATION AND RECOVERY**

H-GAC's liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless H-GAC, its board members, officers, agents, officials, employees and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgements, and liens arising as a result of Contractor's negligent act or omission under this Agreement. Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against Contractor relating to this Agreement.

#### **ARTICLE 22: LIMITATION OF CONTRACTOR'S LIABILITY**

Except as specified in any separate writing between the Contractor and an END USER, Contractor's total liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC, is limited to the price of the particular products/services sold hereunder, and Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will Contractor be liable for any loss of use, loss of time, inconvenience, commercial loss, loss of profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to

END USER any amounts determined by H-GAC, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Agreement.

**ARTICLE 23: TITLES NOT RESTRICTIVE**

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

**ARTICLE 24: JOINT WORK PRODUCT**

This Agreement is the joint work product of H-GAC and the Contractor. This Agreement has been negotiated by H-GAC and the Contractor and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

**ARTICLE 25: DISPUTES**

All disputes concerning questions of fact or of law arising under this Agreement, which are not addressed within the Whole Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with H-GAC's final decision.

**ARTICLE 26: CHOICE OF LAW: VENUE**

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas. Disputes between END USER and Contractor are to be resolved in accordance with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

**ARTICLE 27: ORDER OF PRIORITY**

In the case of any conflict between or within this Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and, 4) Other Attachments.

**SIGNATURES:**

H-GAC and the Contractor have read, agreed, and executed the whole Agreement as of the date first written above, as accepted by:

**CompuCycle, Inc.**

DocuSigned by:  
Signature *Clive Hess*  
B1B61360E27D472...

Name Clive Hess  
Title Executive Vice President  
Date 9/2/2020

**H-GAC**

DocuSigned by:  
Signature *Chuck Wemple*  
82EC270D5D61423...

Name Chuck Wemple  
Title Executive Director  
Date 9/2/2020

# H-GAC

Houston-Galveston Area Council  
P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Goods and Services Agreement - CompuCycle, Inc. - Community and Environmental -

20-00765

## SPECIAL PROVISIONS

Incorporated by attachment, as part of the whole agreement, H-GAC and the Contractor do, hereby agree to the Special Provisions as follows:

### **ARTICLE 1: SCHEDULED TIME FRAME**

1. The term of the initial contract will be for a period of two (2) years from June 1, 2020, to May 31, 2022. H-GAC reserves the right to extend and/or expand the scope of this contract, subject to H-GAC Board of Directors approval and/or additional funding availability.
2. H-GAC reserves the right, and the Contractor agrees; that the contract may be extended for up to three (3) additional twelve (12) month periods. Should H-GAC wish to exercise this right, it must so notify the Contractor.

### **ARTICLE 2: BIDS/PROPOSALS INCORPORATED**

In addition to the whole Agreement, the following documents listed in order of priority are incorporated into the Agreement by reference: Bid/Proposal Specifications and Contractor's Response to the Bid/Proposal.

### **ARTICLE 3: NO GUARANTEE OF USAGE/PARTICIPATION**

H-GAC makes no guarantee of volume or minimum usage under any contract resulting from this Solicitation. Services will be requested and contracted on an as needed basis and the type and value of each assignment will vary. No minimum level of local government ("End User") participation is guaranteed by H-GAC.

### **ARTICLE 4: PRICE ADJUSTMENTS**

Prices provided in response to this RFP must be firm for the entire term of the Contract. However, changes will be considered if accompanied by proper and sufficient documentation satisfactory to H-GAC.

1. Limits of Price Adjustments – Price change requests MUST be supported with substantive documentation (e.g. manufacturer's price increase notices, copies of invoices from suppliers, etc.) showing that Contractor's actual costs have increased. The U.S. Department of Labor Producer Price Index (PPI), series ID PCU562111562111 for solid waste collection may also provide partial justification for price increases, based upon the percentage difference between the PPI issued for January 2020 and the PPI issued for January each year. Price increases greater than 5% a year are permitted only if substantive market fluctuations occur during the term of the contract. Retroactive contract price adjustments will not be allowed. In the event that these indices are discontinued, or the titles or codes are revised, new indices must be promptly identified and incorporated into the agreement. Pricing structure must remain in effect for the term of any existing contract.
2. Approval of Price Changes - No price change will be allowed unless it has been reviewed and approved by H-GAC in writing. Contractor must receive H-GAC's written approval of any change prior to charging the new price or using it in any quotation prepared for an End User.



3. Right to Accept or Reject– All pricing must remain in effect for the initial term of the contract. If the contract term is extended, H-GAC and Contractor will review unit prices and adjust based upon documented increases in costs. H-GAC reserves the right to accept or reject any price change request within thirty (30) days after receipt of the request.

#### **ARTICLE 5: END USER RESPONSIBILITIES**

End User responsibilities will vary depending on End User needs and resources. The End User, at a minimum, will be responsible for the following:

1. Collection of all required licenses and documentation from Contractor.
2. Coordination of collection activities with Contractor.
3. Suitable site location for collection activities.
4. Promotion of collection activities.
5. Educational materials.
6. Submittal of post-collection data reports to TCEQ.
7. Recruitment and coordination of volunteers.
8. Coordination with local police, fire, EMS and other appropriate agencies.
9. Provision of emergency contact information.

#### **ARTICLE 6: GOVERNING LAW & VENUE**

Contractor and H-GAC agree that Contractor will make every reasonable effort to resolve disputes with the END USER in accord with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

#### **ARTICLE 7: INVOICING**

Contractor will submit requests for payment directly to participating End Users. End Users will forward payments to Contractor within thirty (30) calendar days subject to having received accurate invoices accompanied by detailed supplements and other backup documents.

#### **ARTICLE 8: LIQUIDATED DAMAGES**

Contractor and H-GAC agree that Contractor shall cooperate with the END USER at the time an END USER purchase order is placed, to determine terms for any liquidated damages.

#### **ARTICLE 9: INSURANCE**

Contractor must provide professional liability, general liability and property insurance in amounts in accordance with applicable State Statute or Federal Regulation sufficient to cover applicable contractual liability, protect program equipment, and facilities. Contractor must ensure that any owned, leased, or non-owned automobiles used in performance of any contractual agreement by Contractor's employees or agents are covered by sufficient automobile liability insurance. Contractor further represents to H-GAC that it either has Workers' Compensation insurance in the amount required by statute or is self-insured for Workers' Compensation coverage under statute. All insurance certificates, policies, and binders must be maintained by Contractor at its program site for review by H-GAC at any time, and a copy must be provided to H-GAC upon contract award.

The Contractor shall obtain and maintain in effect during the term of this agreement, insurance coverage as set forth below and shall furnish certificates of insurance showing H-GAC as an Additional Insured, in duplicate form, prior to the beginning of the Agreement. Each policy, except those for Worker's Compensation and Employer's Liability, must name H-GAC as Additional Insured parties on the original policy and all renewals or replacements. Each policy, except for Worker's Compensation and Employer's Liability, must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under the Agreement. Contractor's failure to maintain the required insurance coverage at any time during the Contract period may be grounds for H-GAC to suspend the Contract and for End Users to withhold payment until insurance coverage is satisfactory. The issuer of any policy shall have a certificate of authority to transact insurance business in the State of 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 of the Best's Key Rating Guide, Property-Casualty United States.

Standard insurance policies and minimum amounts required are as follows:

1. Commercial General Liability insurance for bodily and personal injury (including death) and property damage.
  - a. Each occurrence not less than ,000,000.
  - b. General aggregate not less than ,000,000.
  - c. The coverage shall include but not be limited to personal injury liability, premises/operations, and products/completed operations.
2. Worker's Compensation and Employer's Liability Insurance.
  - a. Employer's Liability insurance of ,000,000 per occurrence.
  - b. Worker's Compensation as required by statute.
3. Automobile Liability (for vehicles Contractor uses in performing under the Agreement, including Employer's Owned, Non-Ownership and Hired Auto Coverage) with broad pollution liability endorsement and MCS-90 endorsement.
  - a. Combined Single Limit of ,000,000 per occurrence.
4. Excess Liability a. ,000,000 per occurrence and ,000,000 aggregate.
5. Other Insurance a. If requested by H-GAC, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under the Agreement.

The Contractor is responsible for making sure that the processor of material, whether that be the Contractor, or an approved subcontractor carries the following insurance:

1. Environmental Impairment Liability and/or Pollution Liability a. ,000,000 per occurrence or claim and ,000,000 aggregate.

Defense costs are excluded from the face amount of the policy. Aggregate limits are per 12-month policy period unless otherwise indicated. All of the insurance required to be carried by the Contractor hereunder shall be by policies which shall require on their face, or by endorsement, that the insurance carrier waive any rights of subrogation to recover against H-GAC, and that it shall give thirty (30) days written notice to H-GAC before they may be cancelled or materially changed. Within such thirty (30) day period, Contractor covenants that it will provide other suitable policies in lieu of those about to be cancelled or materially modified, or nonrenewed so as to maintain in effect the coverage required under the provisions hereof. Failure or refusal of the Contractor to obtain and keep in force the above-required insurance coverage shall authorize H-GAC, at its option, to terminate the Agreement at once. Contractor shall give written notice to H-GAC within five (5) days of the date

on which total claims by any party against Contractor reduce the aggregated amount of coverage below the amounts required by the Agreement.

Contractor shall pay all insurance premiums, and H-GAC shall not be obligated to pay any premiums. 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 H-GAC.

If any part of the work is sublet, similar insurance shall be provided by or in behalf of the subcontractor to cover their operations, and evidence such as insurance, satisfactory to H-GAC shall be furnished by the Contractor. In the event a subcontractor is unable to furnish insurance in the limits required under the Agreement, the Contractor shall endorse the subcontractor as an Additional Insured on his policies excluding Worker's Compensation and Employer's Liability.

Only unaltered original insurance certificates endorsed by the underwriter are acceptable. Photocopies are unacceptable.

#### **ARTICLE 10: REQUIREMENTS**

Any subcontractor utilized for any task, including, but not limited to transport, treatment, storage or disposal, must be EPA and/or TCEQ-licensed and/or registered to perform such tasks if EPA and/or TCEQ license or registration is required.

- Understanding the compliance regulations per TCEQ, of transporting potentially hazardous and non-hazardous material. Contractor will be compliant with Rule 335.24 of the Texas Administrative Code.
- All vehicles transporting hazardous materials (subcontractors included) must be properly registered, and hazardous material drivers must have all required State and Federal licenses.
- All packaging and transportation of hazardous and non-hazardous material must be in accordance with Department of Transportation (DOT) regulations.
- Contractor must obtain all required Federal, State and local permits for the responsibilities of the Contractor. Contractor must obtain all necessary permits and qualify to transport electronics according to DOT exemptions. Contractor must qualify to transport material streams packaged in non-DOT specification packaging under DOT exemptions.
- Storage treatment/disposal facilities must be EPA and/or TCEQ licensed, registered, and permitted as required.

**Regional Electronics Recycling Scope of Work**  
**Solicitation Number: CE-SW-ELECRECY-2020-03**

**PART II – SCOPE OF WORK**

The successful Proposer under contract with H-GAC must be responsible for the collection, transportation, and recycling of used electronics from the End User(s), according to the requirements of these specifications, the contract with H-GAC, and the purchase order issued from the End User(s) or service contract with End User(s), as well as all applicable federal, state, and local laws. The successful Proposer will not collect electronics directly from H-GAC.

It is H-GAC's intention to minimize the disposal of used electronics in landfills and incinerators. Processing to recycle as much as possible and ensuring proper disposal of the remainder is strongly encouraged. Proposals to consolidate and sell used electronics to third parties without processing will not be considered.

As the electronics are derived from households, H-GAC cannot warranty that any or all proprietary data or software has been removed from any equipment transferred to Contractor. H-GAC assumes that the patrons utilizing the electronic recycling program intend to dispose of the equipment and hence, if any data or software is discovered, the Contractor may destroy any such data or software in accordance with its established procedure without prior or further notice to H-GAC. H-GAC cannot guarantee volume of any particular electronic items.

Two service scenarios are detailed in the Cost Proposal described below. The first involves provision of used electronics collection, transportation, and recycling services for one-day and mobile collection events (collectively called "one-day events"). The second involves the provision of used electronics collection, transportation, and recycling services for permanent facilities. Both scenarios must be addressed by responses to this RFP. (See Proposal Contents Section for detail.)

**Minimum Requirements**

- Any subcontractor utilized for any task, including, but not limited to transport, treatment, storage or disposal, must be EPA and/or TCEQ-licensed and/or registered to perform such tasks if EPA and/or TCEQ license or registration is required.
- Understanding the compliance regulations per TCEQ, of transporting potentially hazardous and non-hazardous material. Contractor will be compliant with Rule 335.24 of the Texas Administrative Code.
- All vehicles transporting hazardous materials (subcontractors included) must be properly registered, and hazardous material drivers must have all required State and Federal licenses.
- All packaging and transportation of hazardous and non-hazardous material must be in accordance with Department of Transportation (DOT) regulations.
- Contractor must obtain all required Federal, State and local permits for the responsibilities of the Contractor. Contractor must obtain all necessary permits and qualify to transport electronics according to DOT exemptions. Contractor must qualify to transport material streams packaged in non-DOT specification packaging under DOT exemptions.
- Storage treatment/disposal facilities must be EPA and/or TCEQ licensed, registered, and permitted as required.

### **Recycling and Waste Management Hierarchy**

H-GAC recognizes concerns for the depletion of natural resources and the ecological effect of wastes in the environment, and encourages the use of recycled, recyclable and reusable products and materials. H-GAC also adheres to the Environmental Protection Agency's waste hierarchy of preferred methods for waste reduction. Waste reduction is the most preferred method, followed by recycling, and lastly disposal in combustion facilities and landfills. Proposers are encouraged to demonstrate their support of the recycling and waste management hierarchy goals of H-GAC and to arrange for the ultimate disposition of the wastes accordingly.

The chosen Proposer will serve as the Primary Contractor. The Primary Contractor will be responsible for subcontracting selected services related to the recycling, reuse, collection, transportation, or disposal of the collected electronics.

### **Task A – One Day Collection Events**

#### **Subtask 1A - Planning and Assistance**

The Contractor must, at the request of the End User, provide staff experienced or trained to the satisfaction of the End User to attend meetings with the End User to review proposed collection site procedures, or otherwise assist End User staff in planning the collection project. Assistance may include coordination of a contingency plan.

#### **Subtask 2A - Mobilization, Demobilization, and On-site Equipment**

Includes at least the following:

- The movement of the collection/transportation team plus supplies and equipment to package electronics to the collection site
- Set-up and decommission of the collection site
- Personal protective equipment
- Safety equipment
- Procedures for handling non-acceptable items
- The removal of all materials and used electronics off-site the same day as the collection event
- The return of the site to its original condition

#### **Subtask 3A - On-site Labor**

The Proposer and the End User will determine specific personnel needs prior to the collection day(s). Since End User needs will vary, Proposers may be required to provide on-site labor for the following:

- Technicians, appropriately trained for collection sorting, packaging and transport of collected materials
- Personnel capable of traffic control, surveying and educational material distribution
- Laborers for site set-up, tear-down and other unskilled tasks
- Site security. Proposer must establish security measures to minimize damage, loss or theft of equipment within its control until it is processed.

#### **Subtask 4A - Recycling/Disposal**

The recycling facility must be responsible for recycling, de-manufacturing, and transporting the categories of materials listed, in accordance with Types of Electronics as noted herein. Sensitive data must be removed from all electronics utilizing a “Clear,” “Purge,” or “Destroy” method. The sanitized information must be removed before selling or donating the media.

#### **Subtask 5A – Transportation**

Proposers must supply per pallet/container transportation for materials. Proposers must provide transportation at its sole cost to its facility and provide the materials, personnel and facility to process electronics for recycling.

#### **Subtask 6A – Supplies**

Supplies may vary with each End User. End Users may provide their own supplies depending on their resources. Proposers may be required to provide at least the following:

- cubic yard boxes
- tents for shelter and/or storage space
- forklifts
- pallets
- pallet jacks
- containers for the disposal of non-hazardous material
- containers for collection of non-hazardous materials which can be recycled
- appropriate signage
- tables and chairs for shelter area(s)
- traffic control devices and safety cones
- first aid supplies
- temporary, portable restroom facilities

#### **Task B – Permanent Facility**

##### **Subtask 1B - Mobilization, Demobilization, and On-site Equipment**

Includes at least the following:

- The movement of the packaging and loading personnel and equipment to periodically package, load, and transport electronics from the permanent collection facility
- Personal protective equipment
- Administrative costs
- Safety equipment

##### **Subtask 2B - On-site Labor**

Proposers must provide labor for technicians and any other needed personnel. The Proposer and the End User will determine specific personnel needs prior to the collection of used electronics at the permanent facility.

##### **Subtask 3B - Recycling/Disposal**

The recycling facility must be responsible for recycling, de-manufacturing, and transporting the categories of materials listed, in accordance with Types of Electronics as noted herein. Sensitive data must be removed from all electronics utilizing a “Clear,” “Purge,” or “Destroy” method. The sanitized information must be removed before selling or donating the media.

### **Subtask 4B – Transportation**

Proposers must supply transportation for materials.

### **Subtask 5B - Supplies**

Proposers must provide pallets/containers.

### **Price Adjustments**

Prices provided in response to this RFP must be firm for the entire term of the Contract. However, changes will be considered if accompanied by proper and sufficient documentation satisfactory to H-GAC.

1. Limits of Price Adjustments – Price change requests **MUST** be supported with substantive documentation (e.g. manufacturer’s price increase notices, copies of invoices from suppliers, etc.) showing that Contractor’s actual costs have increased. The U.S. Department of Labor Producer Price Index (PPI), series ID PCU562111562111 for solid waste collection may also provide partial justification for price increases, based upon the percentage difference between the PPI issued for January 2020 and the PPI issued for January each year. Price increases greater than 5% a year are permitted only if substantive market fluctuations occur during the term of the contract. Retroactive contract price adjustments will not be allowed. In the event that these indices are discontinued, or the titles or codes are revised, new indices must be promptly identified and incorporated into the agreement. Pricing structure must remain in effect for the term of any existing contract.
2. Approval of Price Changes - No price change will be allowed unless it has been reviewed and approved by H-GAC in writing. Contractor must receive H-GAC’s written approval of any change prior to charging the new price or using it in any quotation prepared for an End User.
3. Right to Accept or Reject– All pricing must remain in effect for the initial term of the contract. If the contract term is extended, H-GAC and Contractor will review unit prices and adjust based upon documented increases in costs. H-GAC reserves the right to accept or reject any price change request within thirty (30) days after receipt of the request.

### **Documentation**

1. Contractor must provide copies of all manifests to the End User and to H-GAC within thirty (30) days of a 1-day collection event or immediately upon shipment from a permanent collection facility.
2. Contractor must provide Certificates of Disposal/Destruction that indicate the date, location, and method of treatment and disposal within six (6) months of arrival of the electronics at the permitted facility to the End User.
3. Contractor must submit documentation to H-GAC, if requested, on all events and permanent facility pickups, which includes the following documentation:
  - a. Date and location of collection
  - b. Pounds of material collected
  - c. Households participating (for one-day events)
  - d. Total cost of collection, transportation and disposal
  - e. Handling method by pounds and percentage of material collected

Failure to complete items 1-2 above is a direct violation of the contract. This violation may result in non-renewal of the contract.

### **End User Responsibilities**

End User responsibilities will vary depending on End User needs and resources. The End User, at a minimum, will be responsible for the following:

1. Collection of all required licenses and documentation from Contractor
2. Coordination of collection activities with Contractor
3. Suitable site location for collection activities
4. Promotion of collection activities
5. Educational materials
6. Submittal of post-collection data reports to TCEQ
7. Recruitment and coordination of volunteers
8. Coordination with local police, fire, EMS and other appropriate agencies
9. Provision of emergency contact information

### **Post Award Meeting**

H-GAC reserves the right to require the awarded respondent attend a post award meeting with H-GAC staff and/or other designated persons at H-GAC offices in Houston, Texas within thirty (30) calendar days after the award. The purpose of the meeting will be to discuss the terms and conditions and to provide additional information regarding the work tasks and requirements. Awarded respondent and H-GAC will identify specific goals, strategies and activities planned for meeting program objectives.