

**HOUSTON-GALVESTON AREA COUNCIL  
FY13 SOLID WASTE IMPLEMENTATION  
PROGRAM CONTRACT**

**Contractor**

Entity	Fort Bend County Environmental Health
Street Address	4520 Reading Road, Suite A
City, Texas Zip	Rosenberg, Texas 77471
Contact:	Troy Scalco
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**H-GAC**

Community and Environmental Planning Department  
Houston-Galveston Area Council  
3555 Timmons Lane, Suite 120  
Post Office Box 22777  
Houston, Texas 77227-2777  
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**TCEQ FY 12 Solid Waste Implementation Grants**

Project Description:	Truck
Contract Number:	13-16-G05
Contract Amount:	\$35,772.00
Grant Period:	September 1, 2012 to June 30, 2013

**HOUSTON-GALVESTON AREA COUNCIL  
FY13 SOLID WASTE IMPLEMENTATION PROGRAM CONTRACT**

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**HOUSTON-GALVESTON AREA COUNCIL  
GENERAL PROVISIONS  
INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement is made and entered into this 1st day of September, 2012, 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 Fort Bend County Environmental Health Department hereinafter referred to as the Contractor, having its principal place of business 4520 Reading Road, Suite A, Rosenberg, Texas 77471.

**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. Such standards and laws shall include, to the extent applicable, the Uniform Grant and Contract Management Standards ("UGMS") promulgated by the State of Texas and the state and federal statutes referenced therein.

**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 payrolls and claims arising therefrom. 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 4 WHOLE AGREEMENT**

The General Provisions, Special Provisions and Attachments, copy of H-GAC FY13 Solid Waste Grant Application, as provided herein, constitute the complete 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 the Special Provisions of this Agreement.

#### **ARTICLE 6 PERFORMANCE PERIOD**

This Agreement shall be performed during the period which begins September 1, 2012 and ends June 30, 2013.

#### **ARTICLE 7 REPORTING REQUIREMENTS**

Reporting requirements are set forth in the Special Provisions of this Agreement. 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 withhold payments otherwise due and owing the Contractor hereunder. If H-GAC withholds such payments, it shall notify the Contractor of its decision and the reasons therefore. Payments withheld pursuant to this Article may be held by H-GAC until such time as the delinquent obligations for which funds are withheld are fulfilled by the Contractor. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement.

#### **ARTICLE 8 PAYMENTS**

The Contractor agrees that payments are predicated upon properly documented and verified proof of performance delivered and costs incurred by the Contractor in accordance with the terms of this Agreement and shall be paid in accordance with the Compensation Schedule in the Special Provisions.

#### **ARTICLE 9 NON FUNDING CLAUSE**

Each payment obligation of H-GAC created by this Agreement is conditioned upon the availability of state or federal funds appropriated or allocated for the payment of such obligations. H-GAC shall not be otherwise obligated or liable for any future payments due or for any damages as a result of interruption of payment or termination under this Article. If sufficient state or federal

funds are not allocated or otherwise available from H-GAC, Contractor shall have no further obligation to perform its duties under this Contract once available funds have been expended.

#### **ARTICLE 10 INSURANCE**

The Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as specified in the Special Provisions.

#### **ARTICLE 11 REPAYMENTS**

The Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to H-GAC 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 12 SUBCONTRACTS**

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(s) 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.

#### **ARTICLE 13 AUDIT**

As a recipient of state or federal assistance through this Agreement, the Contractor acknowledges that it is subject to the Single Audit Act Amendments of 1996, P.L. 98-502, (hereinafter referred to as "Audit Act"), OMB Circular No. A-133, and the State of Texas Single Audit Circular incorporated in UGMS.

The Contractor shall have an audit made in accordance with the Single Audit, requirements of the most recently adopted UGMS and OMB Circular A-133 for any of its fiscal years in which Contractor expends more than \$500,000 in state or federal financial assistance.

The Contractor will provide H-GAC a copy of the single audit, including management letter and reporting package required by federal and state rules within 30 days after receipt of the auditor's report, or nine months after the end of the audit period.

H-GAC reserves the right to conduct or cause to be conducted an independent audit of all funds received under this Agreement which may be performed by the local government audit staff, a certified public accountant firm, or other auditors as designated by the H-GAC. Such audit will be conducted in accordance with State law, regulations, and policy, and generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any costs disallowed or overpayment as a result of audit or inspection of records kept by the Contractor on work performed under this Agreement.

#### **ARTICLE 14 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 the 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 it. 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 to include in all its subcontracts permitted pursuant to Article 12 hereof, a provision to the effect that the subcontractor agrees that H-GAC and its duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or until all audit findings have been resolved, have access to and the right to examine and copy any directly pertinent books, documents, papers, invoices and records of such subcontractor involving transactions relating to the subcontract.

#### **ARTICLE 15 RETENTION OF RECORDS**

The Contractor shall maintain all records pertinent to this Agreement, including but not limited to those records enumerated in Article 14, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than three (3) calendar years from the later of the date of acceptance of the final contract closeout or the date of the final audit required under Article 13 of this Agreement. 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 regular three (3) year period, whichever is later.

#### **ARTICLE 16 CHANGES AND AMENDMENTS**

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation; provided if the Contractor may not legally comply with such change, the contractor may terminate its participation herein as authorized by Article 17.

H-GAC may, from time to time, require changes in the scope of the services of the Contractor to be performed hereunder. Such changes that are mutually agreed upon by and between H-GAC and the Contractor in writing shall be incorporated into this Agreement.

#### **ARTICLE 17 TERMINATION PROCEDURES**

The Contractor acknowledges that this Agreement may be terminated under the following circumstances:

A. Convenience

H-GAC may terminate this Agreement in whole or in part without cause at any time by written notice by certified mail to the Contractor whenever for any reason H-GAC determines that such termination is in the best interest of H-GAC. 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. In the event of termination in whole, the Contractor shall prepare a final invoice within 30 days of such termination reflecting the services actually performed which have not appeared on any prior invoice, such invoice shall be satisfactory to the Executive Director or his designee. H-GAC agrees to pay the Contractor, in accordance with the terms of the Agreement, for services actually performed and accruing to the benefit of H-GAC, less payment of any compensation previously paid.

The Contractor may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to H-GAC. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC. In the event of such termination prior to completion of the Agreement provided for herein, H-GAC agrees to pay services herein specified on a prorated basis for work actually performed and invoiced in accordance with the terms of this Agreement, less payment of any compensation previously paid.

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 Agreement that completion of the 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 of ten (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.

In the event of such termination, all services of the Contractor and its employees and subcontractors shall cease and the Contractor shall prepare a final invoice reflecting the services actually performed pursuant to the Agreement which have not appeared on any prior invoice. Such invoice must be satisfactory to the Executive Director of H-GAC or his designee. H-GAC agrees to pay the Contractor, in accordance with the terms of this Agreement, for services actually performed and accruing to the benefit of H-GAC as reflected on said invoice, less payment of any compensation previously paid and less any costs or damages incurred by H-GAC as a result of such default, including incremental costs that H-GAC will incur to have the Agreement completed by a person other than the contractor.

#### **ARTICLE 18 SEVERABILITY**

All parties 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 19 COPYRIGHTS**

The state or federal awarding agency and H-GAC reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state or federal government or H-GAC purposes:

- (a) The copyright of all maps, data, reports, research or other work developed under this Agreement; and
- (b) Any copyrights or rights of use to copyrighted material which the Contractor purchases with funding under this Agreement. All such data and material shall be furnished to H-GAC on request.

#### **ARTICLE 20 OWNERSHIP OF MATERIALS**

Except as may be specified in the Special Provisions, all data, reports, research, etc., developed by the Contractor as a part of its work under this Agreement shall become the property of the H-GAC upon completion of this Agreement, or in the event of termination or cancellation hereof, at the time of payment under ARTICLE 8 for work performed. All such data and material shall be furnished to H-GAC on request.

#### **ARTICLE 21 FORCE MAJEURE**

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified 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 the H-GAC.

## **ARTICLE 22 NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

The Contractor agrees to comply with all state and federal statutes relating to nondiscrimination. These 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) 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; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) 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; (g) §§ 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; (h) 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; (I) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

## **ARTICLE 23 CONFLICT OF INTEREST**

No officer, member or employee of the Contractor or subcontractors, 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 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 24 POLITICAL ACTIVITY; LOBBYING**

No funds provided under this Agreement may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with state or local legislators. The Contractor, if a recipient of federal assistance exceeding \$100,000 through an H-GAC subcontract, will comply with section 319, Public Law 101-121 (31 U.S.C. 1352).

## **ARTICLE 25 SECTARIAN INVOLVEMENT PROHIBITED**

The Contractor shall ensure that no funds under this Agreement are used, either directly or indirectly, in the support of any religious or anti-religious activity, worship, or instruction.

#### **ARTICLE 26 CRIMINAL PROVISIONS AND SANCTIONS**

The Contractor agrees that it will perform the Agreement activities 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 the funding entity. The Contractor agrees to promptly notify H-GAC of suspected fraud, abuse or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof and to 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.

#### **ARTICLE 27 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 28 ACKNOWLEDGEMENT OF FUNDING SOURCE**

The Contractor shall give credit to H-GAC as the funding source for this Agreement in all oral presentations, written documents, publicity, and advertisements regarding any of the Contractor's activities which arise from this Agreement.

#### **ARTICLE 29 DISPUTES**

Any and all disputes concerning questions of fact or of law arising under this Agreement which are not disposed of by agreement 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 copy, 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 30 GOVERNING LAW; VENUE**

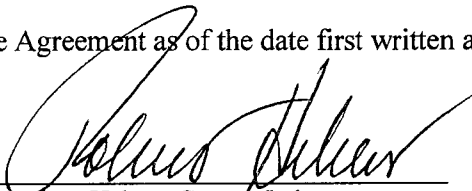
This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris City, Texas, unless the laws of the State of Texas specifically establish venue in some other City.

**ARTICLE 31 ORDER OF PRIORITY**

In the case of any conflict between the General Provisions, the Special Provisions, and Attachments to this Agreement, the following order of priority shall be utilized: Special Provisions, General Provisions, and Attachments.

H-GAC and the Contractor have executed the Agreement as of the date first written above.

\_\_\_\_\_  
Jack Steele, Executive Director  
Houston-Galveston Area Council

  
\_\_\_\_\_  
Robert Hebert, County Judge  
Fort Bend County

\_\_\_\_\_  
Date

August 7, 2012  
\_\_\_\_\_  
Date

ATTEST/SEAL: (OPTIONAL)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ADDITIONAL SIGNATURES: (OPTIONAL)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**HOUSTON-GALVESTON AREA COUNCIL  
FY13 SOLID WASTE IMPLEMENTATION PROGRAM  
SPECIAL CONTRACT PROVISIONS**

ARTICLE 1 PERIOD OF PERFORMANCE

The period of performance of this Agreement begins on September 1, 2012 and ends on June 30, 2013.

ARTICLE 2 CONTRACT DOCUMENTS

1. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be completed or constructed in accordance with the total Agreement. Any work, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically called for. When words or phrases which have a well-known technical industry or trade meaning are used to describe work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning.
2. The Contract Documents which comprise the entire Agreement between H-GAC and CONTRACTOR concerning the work, listed in the order of preference in the event of a conflict, consist of the following: the Special Provisions, the General Provisions, and Attachment A – B (Scope of Services, and Budget).
3. The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: all Written Amendments and other documents amending, modifying or supplementing the Agreement pursuant to the General or Special Provisions. These documents will be attached to the Agreement following execution thereof.

ARTICLE 3 SCOPE OF SERVICES

All parties agree that the CONTRACTOR, in consideration of the compensation hereinafter described, shall provide the services with H-GAC approval and/or supervision as specifically described in Scope of Services, Attachment A, which is attached hereto and incorporated herein for all purposes.

The CONTRACTOR agrees to implement the Project according to the agreed upon budget shown in Contract Budget, Attachment B.

ARTICLE 4 LEGAL AUTHORITY

The CONTRACTOR warrants and assures H-GAC that it has 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. The activities funded under this Agreement shall be in accordance with all provisions of this Agreement, all applicable state and local laws, rules, regulations, and guidelines. The main governing standards included, but may not be limited to the following:

1. §361.014 of the TEX. HEALTH & SAFETY CODE ANN.;
2. Title 30 Texas Administrative Code (30 TAC) Chapter 330, Section 330.649, TCEQ Rules and 30 TAC Chapter 14, TCEQ Rules;
3. The Uniform Grant and Contract Management Act, TEX GOV'T CODE ANN., §§783.001 et. Seq., and the Uniform Grant and Contract Management Standards, 1 Texas Administrative Code (TAC), §§5.141 – 5.167 (collectively, "UGMS"); and
4. The Interlocal Contract between the Texas Commission on Environmental Quality (TCEQ) and H-GAC.

This Agreement is entered into by and between the CONTRACTOR and H-GAC. Neither Texas Commission on Environmental Quality (TCEQ) nor the State of Texas is a party to this Agreement.

#### ARTICLE 5 H-GAC OBLIGATIONS

##### A. Measure of Liability

In consideration of full and satisfactory performance hereunder, H-GAC will be liable to CONTRACTOR in an amount equal to the actual costs incurred by CONTRACTOR in rendering such performance, subject to the following limitations:

1. H-GAC is not liable for expenditures made in violation of "Supplemental Funding Standards", Article 9 which outlines prohibited activities as defined by the TCEQ and the Uniform Grant and Contract Management Standards Act.
2. H-GAC is not liable for any costs incurred by CONTRACTOR in the performance of this Agreement which have not been billed to H-GAC within thirty (30) days following termination of this Agreement.
3. H-GAC is not liable to CONTRACTOR for costs incurred or performance rendered by CONTRACTOR before commencement of this Agreement or after termination of this Agreement.
4. Except as specifically authorized by H-GAC in writing, H-GAC is liable only for expenditures made in compliance with the cost principles and administrative requirements set forth in Federal OMB Circular A-87 as incorporated into Uniform Grant and Contract Management Standards (UGMS).

5. Notwithstanding any other provisions of this Agreement, it is understood and agreed by the parties hereto that H-GAC's obligation under this Agreement are contingent upon actual receipt of funds from the Texas Commission on Environmental Quality to meet H-GAC liabilities hereunder. If sufficient state or federal funds are not allocated or otherwise available from H-GAC Contractor shall have no further obligation to perform its duties under this Contract once available funds have been expended.

B. Method and Schedule of Payment

1. Financial reporting. Except when submitting the Final Financial Report (see Section C), CONTRACTOR must submit to H-GAC a report detailing allowable expenditures incurred during the previous month no later than the **tenth** day following the end of each month of the period of performance for this Agreement. Allowable expenditures are set forth in Attachment B of this Agreement and are made on a reimbursement basis only. This report must be submitted on H-GAC Financial Report Form together with such reporting documentation as H-GAC may require. (*A monthly financial report is due each month even if there are no expenses to report.*)
2. Payments. Upon review and approval of each such H-GAC Financial Report Form, H-GAC will make payment to CONTRACTOR against H-GAC liabilities to be accrued hereunder.
3. If sufficient state or federal funds are not allocated or otherwise available from H-GAC, Contractor shall have no further obligation to perform its duties under this Contract once available funds have been expended.
4. If CONTRACTOR fails to expend funds in accordance with Section 3 above, H-GAC may, through unilateral action, de-obligate funds from the Agreement, in amount that would bring CONTRACTOR'S expenditures into line with the expenditure goals in Section 3. In addition to de-obligation of funds, H-GAC may at its discretion impose performance improvement plans upon CONTRACTOR.

C. CONTRACTOR Final Financial Report

No later than **thirty-one (31) days** following the termination of this Agreement, the CONTRACTOR must submit to H-GAC a Financial Report Form marked "Final". The final Financial Report shall notify H-GAC that no further reimbursement requests will be made against this Agreement post the final Financial Report.

ARTICLE 6 GRANT PROGRESS REPORTING REQUIREMENTS

- A. The CONTRACTOR shall prepare and submit to H-GAC, *written grant progress reports* concerning performance under this Agreement documenting accomplishments, units of work and program results performed/accomplished under Attachment A of this agreement. Grant progress reports are due on the following dates **December 10, 2012** (covering the months of

September - November), **March 10, 2013** (covering the December - February), **June 10, 2013** (covering March – May) and **July 31, 2013** (covering June). The July 2013 report will serve as the End of Grant Term final report. End of Grant Term final grant progress report shall be provided to H-GAC at the end of the Contract period of performance. The End of Grant Term final grant progress report shall certify that the satisfactory completion of all activities and deliverables required under this Agreement. In addition, the CONTRACTOR shall submit a Follow Up Report due to H-GAC on or near September 1, 2013. Payments (reimbursements) required under this Agreement may be withheld by H-GAC until such time as any past due grant progress reports, not including Follow Up Report, are received.

- B. The CONTRACTOR's *grant progress reports* required under Part A of this Article contain descriptions of activities and results for H-GAC to ensure that the provisions of this Agreement are being complied with. In particular, any legal research and related legal activities shall be clearly detailed in the quarterly grant progress reports in order to assure H-GAC that the activities are not prohibited under Article 10 of this Agreement (relating to Supplemental Funding Standards). The CONTRACTOR shall comply with any reasonable request by H-GAC for additional information on activities conducted in order for H-GAC to adequately monitor the CONTRACTOR progress in completing the requirements of and adhering to the provisions of this Agreement.
- C. The CONTRACTOR agrees to document the results of the grant-funded project and to provide those results to H-GAC for use in evaluating program effectiveness and for providing regional results information to the TCEQ.
- D. The CONTRACTOR's failure to comply with the requirements of this Article shall constitute a breach of this Agreement.

#### ARTICLE 7 FINANCIAL ADMINISTRATION OF PASS-THROUGH GRANTS

In administering a financial management system, the CONTRACTOR shall adhere to the specific standards and requirements set forth in this Section and in the UGMS, except that the requirements and processes may be more stringent than what is set forth in this Section.

- A. This Agreement accounts for expenses incurred and request reimbursement of outlays under either a cash or an accrual basis, as defined and authorized under the UGMS. To be eligible for reimbursement under this Agreement, a cost must have been incurred and either paid by the CONTRACTOR prior to claiming reimbursement from H-GAC or incurred by the last day of the time period indicated on a request for reimbursement form and liquidated no later than thirty (30) days after the end of that time period.
- B. Payments by H-GAC to CONTRACTOR shall be solely for reimbursement of actual allowable costs utilizing the same standards and requirements for cost reimbursement payments from the TCEQ to H-GAC. H-GAC shall reimburse the actual incurred costs of CONTRACTOR with no payments in advance.

- C. The CONTRACTOR shall utilize a standard reimbursement form supplied to the CONTRACTOR by H-GAC. The CONTRACTOR shall submit expense documentation records as deemed necessary by H-GAC, in accordance with H-GAC's financial monitoring plan and program, to ensure that the outlays by the CONTRACTOR are authorized and appropriate.
- D. H-GAC shall not reimburse or otherwise make payment to the CONTRACTOR for an expenditure that is not authorized under this Agreement. If it is determined, by either the CONTRACTOR, H-GAC, or the TCEQ that an expenditure that was reimbursed is not an authorized expense, H-GAC shall request return and reimbursement of those funds from the CONTRACTOR or, where appropriate, the application of those funds to other authorized expenses, and shall not provide any additional reimbursement to the CONTRACTOR until the funds are returned or are applied to other authorized expenses.
- E. In general, expenditure documentation to be submitted to H-GAC along with the H-GAC Financial Report Form should be whatever is necessary to show that the work was indeed performed and that the expense was, in fact, incurred. In addition, the documentation should also support the fact that the expenditure was reasonable and necessary to this Agreement.

Documents that should be submitted to H-GAC, as appropriate for the expenses, include by category, the records listed below.

1. Salary/Wages. The CONTRACTOR shall either summarize the salary charges by listing them on the H-GAC Financial Form or submit signed and approved time sheets for each salary charge.
2. Travel. Travel expenses must be consistent with the CONTRACTOR's locally adopted travel policies. The expenses must be supported and documented receipts for all expenses such as meals, public transportation, hotel accommodations, and airline receipts. If the CONTRACTOR does not have an approved travel policy in place, the CONTRACTOR shall use the UGMS travel policy.
3. Equipment. Documentation should support conformance with required procurement policies and procedures. Expenditures should be supported by purchase orders (if issued), invoices, and copies of checks. An H-GAC controlled asset (formerly known as equipment inventory) form must be completed for each equipment purchase and submitted with other supporting documentation.
4. Supplies. Supply expenses should be supported by purchase orders (if issued), invoices, and copies of checks.
5. Construction. Documentation should support conformance with required procurement policies and procedures. Expenditures should be supported by purchase orders (if issued), invoices, and copies of checks. An executed contract or other agreement is also needed for initial payment. Documentation should demonstrate that costs were reasonable and necessary.

6. Contractual. Contractual costs should be supported by all the documentation described above, e.g. labor charges by time and attendance or similar records, travel charges supported by receipts. Copies of checks for contractual payments must be submitted. An executed contract or other agreement is also needed for initial payment. Documentation should demonstrate that costs were reasonable and necessary.
  7. Other. Other expenses should be supported by purchase orders (if issued), invoices, and copies of checks.
  8. Indirect. The CONTRACTOR shall comply with OMB Circular A-87 and the Uniform Grant Management Standards (UGMS) relating to Indirect Cost Rates. In accordance with the UGMS, indirect charges are authorized if the CONTRACTOR has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. Alternatively, the CONTRACTOR may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If the CONTRACTOR has an approved cost allocation plan, the CONTRACTOR must submit documentation of the approved indirect rate to H-GAC prior to the initial request for reimbursement.
- F. If requested by H-GAC, the CONTRACTOR agrees to provide to H-GAC, copies of the appropriate cancelled checks and the additional expense records and documentation materials, as listed in Section (E) of this Article and appropriate for the expense, for the time period requested by H-GAC, except that the CONTRACTOR will not be asked to submit records that have already been provided to H-GAC with a Financial Report Form. H-GAC will provide reasonable time for the CONTRACTOR to comply with a request for additional records. If H-GAC requests to review additional records to be provided by the CONTRACTOR under H-GAC's financial monitoring program, H-GAC will review those records and provide the CONTRACTOR a written summary of the findings of that review. H-GAC will also allow the CONTRACTOR reasonable time to respond to any findings of noncompliance or other problems identified by the records review.
- G. The CONTRACTOR shall notify and obtain written approval by H-GAC of the specific details of an expense or purchase set forth in this Section, if those expenses were not already authorized under this Agreement.
1. Changes in personnel whose salaries will be funded under this Agreement.
  2. Out-of state travel to training events and conferences.
  3. Equipment, construction, or contractual expenses.
  4. Other category expenses not specifically authorized in this Agreement.

## ARTICLE 8 STANDARDS FOR CONTRACTOR'S PERFORMANCE

1. In accordance with TCEQ guidance, H-GAC is required to monitor the CONTRACTOR's performance under this Agreement. Therefore, CONTRACTOR agrees that the following

are appropriate standards for CONTRACTOR's performance during the Agreement as set forth in this Section.

- a. Timeliness of Work. Standard: Work is provided on schedule.
  - b. Quality of Work. Standard: CONTRACTOR's Work conforms to the requirements of the contract and is technically accurate.
  - c. Subcontract Activities. Standard: CONTRACTOR's subcontract and subgrant activities comply with all H-GAC Agreement requirements regarding subcontracts especially competitive procurement methods for goods and services, use of required subcontract provisions, and monitoring performance of subcontractors and SUBPERFORMING PARTY's.
  - d. Administrative and Financial Operations. Standards: CONTRACTOR's administrative and financial operations comply with all obligations in law and in the contract especially record-keeping, reimbursement requests, audits, allowable costs, and restricted expenditures.
2. Performance Measures. H-GAC will monitor CONTRACTOR's performance and evaluate the level of compliance with the standards utilizing the following performance measures:
- Satisfactory: CONTRACTOR generally complied with the standard consistently; occasional deficiencies may have occurred which were corrected on a timely basis.
  - Unsatisfactory: Significant deficiencies have occurred, or CONTRACTOR frequently or substantially failed to comply with the standard.
3. Schedule Of Remedies Available to H-GAC. The following Schedule of Remedies applies to this contract in the event of substandard performance or other failure to conform to the requirements of the contract or applicable law as set forth in this Section.
- a. Reject substandard performance and request corrections without charge to H-GAC.
  - b. Issue notice of substandard performance or other non-conforming act or omission.
  - c. Request and receive return of any over payments or inappropriate payments.
  - d. Reject reimbursement request and suspend payment pending accepted revision of substandard performance or non-conformity.
  - e. Suspend all or part of the work and/or payments pending accepted revision of substandard performance or non-conformity.

- f. Reject reimbursement requested and withhold all or partial payments. Funds may be retained by H-GAC for recovery of administrative costs or returned to funding source as authorized by agreements with the funding source and by state or federal law.
- g. Terminate the contract, demand and receive: return of all equipment purchased with contract funds, return of all unexpended funds, and repayment of expended funds.

If H-GAC evaluation finds CONTRACTOR's performance to be substandard, H-GAC may provide its written evaluation report to other governmental entities at any time. H-GAC may also provide its written evaluation report to the public as authorized by law.

4. Cumulative Remedies. H-GAC may avail itself of any remedy or sanction provided in this Agreement or in law to recover any losses arising from or caused by the CONTRACTOR's substandard performance or any non-conformity with the Agreement or the law. The remedies and sanctions available to H-GAC in this Agreement shall not limit the remedies available to H-GAC under law.

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the Schedule of Remedies, obligations imposed upon CONTRACTOR by these General Conditions, and all other rights and remedies available to H-GAC thereunder, are in addition to, and are not to be in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available, by Laws or Regulations, by special warranty or guarantee or by other provisions of the Agreement, and the provisions of this paragraph will be as effective as if repeated specifically in the Agreement in connection with each particular duty, obligation, right and remedy to which they apply.

#### ARTICLE 9 STANDARDS APPLICABLE TO PASS-THROUGH GRANT PROJECTS

The standards and requirements set for in this Article shall apply to all pass-through grant projects selected for funding under this Agreement. The CONTRACTOR shall be responsible for ensuring that the pass-through grant projects and activities under this Agreement comply with these standards.

##### A. Eligible Pass-through Grant Recipients.

Only those local and regional political subdivisions located within the State of Texas as listed below are eligible to receive funding from H-GAC as a pass-through grant:

- Cities;
- Counties;
- Public school districts (does not include Universities or post secondary educational institutions); and
- Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities.

## B. Pass-through Grant Project Categories.

The category specific funding limitations outlined for each category shall apply to all uses of funds under pass-through grant projects conducted for that category.

1. **Local Enforcement.** This category consists of projects that contribute to the prevention of illegal dumping of municipal solid waste, including liquid wastes. Under this category, grant recipients may investigate illegal dumping problems; enforce laws and regulations pertaining to the illegal dumping of municipal solid waste, including liquid waste; establish a program to monitor the collection and transport of municipal liquid wastes, through administration of a manifesting system; and educate the public on illegal dumping laws and regulations.
2. **Litter and Illegal Dumping Cleanup and Community Collection Events:** Litter and illegal dumping cleanup may include both ongoing and periodic activities to clean up litter and illegal dumping of MSW, excluding cleanup of scrap tire dumping sites. Projects under this category may support Lake and River Cleanup events, conducted in conjunction with the TCEQ's and Keep Texas Beautiful Lake and River Cleanup program. Eligible expenses include waste removal, disposal or recycling of removed materials, fencing and barriers; and signage. Placement of trash collection receptacles in public areas with chronic littering problems may also be funded. Reuse or recycling options should be considered for managing the materials collected through these efforts, to the extent feasible. Cleanup of hazardous waste will not be eligible for funding.

Periodic community collection events to provide for collection of residential waste materials for which there is not a readily available collection alternative, may also be funded. This type of project may not include regular solid waste collection efforts, such as weekly waste collection. Collection events may be held no more frequently than four times per year, and must only be intended to provide residents an opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system. Funds may not be used for the disposal of collected wastes.

3. **Source Reduction and Recycling.** This category may include projects that are intended to provide a direct and measurable effect on reducing the amount of MSW going into landfills, by diverting materials from the MSW disposal stream for recycling or reuse, or by reducing waste generation at the source. This category does not include the collection, processing, and/or recycling of scrap tires. Funded activities may include: diversion from the waste stream and/or collection, processing for transport, and transportation of materials for reuse and/or recycling; implementation of efficiency improvements in order to increase source reduction and recycling, to include full-cost accounting systems and cost-based rate structures, establishment of a solid waste services enterprise fund, and mechanisms to track and assess the level of recycling activity in the community on a regular basis; and educational and promotional activities to increase source reduction and recycling.

4. Local Solid Waste Management Plans. This category includes projects to develop and/or amend local solid waste management plans by local governments, in accordance with Subchapter D, Chapter 363, Texas Health & Safety Code, as implemented by state rule, Subchapter O, 30 TAC Chapter 330.
5. Citizens' Collection Stations and "Small" Registered Transfer Stations. This category includes projects to construct and equip MSW collection facilities in areas of the state that are under served by collection services or lack public access to proper disposal facilities. Projects funded under this category include citizens' collection stations, as these facilities are defined under the TCEQ's MSW regulations (30 TAC Chapter 330); and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.9(b)(1) through §330.11(e)(4) of the regulations. Funds may not be used for the disposal of collected wastes. Projects funded for these types of facilities shall include consideration of an integrated approach to solid waste management, to include providing recycling services at the site, if appropriate to the management system in place.
6. Household Hazardous Waste Management. This category includes projects that provide a means for the collection, recycling, reuse, and/or proper disposal of household hazardous waste, including household chemicals, used oil and oil filters, antifreeze, lead-acid batteries, household electronic waste, and other materials. This category does not include programs and facilities for collecting, recycling, or disposing of scrap tires, except as may be an ancillary part of the overall program or facility. Funded activities can include: collection events; consolidation and transportation costs associated with collection activities; recycling or reuse of materials; proper disposal of materials; permanent collection facilities, and education and public awareness programs. Funds can also be used to support Texas City Cleanup events, conducted in conjunction with the TCEQ.
7. Technical Studies. This category includes projects for the collection of pertinent data, analysis of issues and needs, evaluation of alternative solutions, public input, and recommended actions to assist in making solid waste management decisions at the local or regional level. Projects under this category may also include research and investigations to determine the location, boundaries, and contents of closed municipal solid waste landfills and sites, and to assess possible risks to human health or the environment associated with those landfills and sites.
8. Educational and Training Projects. Educational components are encouraged under the other categories in order to better ensure public participation in projects; those educational components should be funded as part of those projects and not separately under this category. This category may be used for "stand-alone" educational projects dealing with a variety of solid waste management topics.
9. Other Types of Projects. Other types of projects, not specifically prohibited from funding under the more detailed funding standards and restrictions set forth in Article

10, may be funded on a case-by-case basis. The project or project category must be included in H-GAC's amended regional solid waste plan.

#### ARTICLE 10 SUPPLEMENTAL FUNDING STANDARDS

Unless authorization is specifically provided in accordance with the special provisions of this Agreement or in accordance with Attachment B of this Agreement, the CONTRACTOR shall ensure that funds provided under this Agreement are not used for the following activities, programs, or projects:

- The provision of the Uniform Grant Management Standards (UGMS) issued by the Office of the Governor apply to the use of these funds, as well as the supplemental financial administration guidance established by TCEQ to be applied under all contracts, *TCEQ Allowable Expenditures Guidelines*.
- Recipients of funds under this Agreement, including subcontractors shall comply with all applicable state and local laws and regulations pertaining to the use of state funds, including laws concerning the procurement of goods and services and competitive purchasing requirements.
- Funds may not be provided through a subcontract to any public or private entity that is barred from participating in state contract by the Texas Building and Procurement Commission, under the provisions of §2155.077, Government Code, and 1 TAC §113.02, GSC Regulations.
- Public and private entities subject to payment of state solid waste disposal fees and whose payments are in arrears, as determined by TCEQ, may not receive funds under this Agreement through a subcontract.
- In accordance with §361.014(b), Texas Health and Safety Code, a project or service funded under this Agreement must promote cooperation between public and private entities and may not otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. Under this definition, the term private industry included non-profit and not-for-profit non-governmental entities.
- All equipment and facilities purchased or constructed with funds provided under this Agreement shall be used for the purpose intended in the funding agreement.
- A project or service funded under this Agreement must be consistent with the H-GAC approved regional solid waste management plan, and must be intended to implement the goals, objectives, and priorities established in the regional plan.
- Funds may not be used to acquire land or an interest in land.
- Funds may not be used to supplant existing funds. In particular, staff positions where the assigned functions will remain the same and that were active at the time of the funding

application or proposal, and were funded from a source other than a previous solid waste grant, may not be funded.

- Funds may not be used for food or entertainment expenses, including refreshments at meetings and other functions. This provision does not apply to authorized employee per diem expenses for food cost incurred while on travel status.
- Funds may not be used for payment of salaries to any employee who uses alcoholic beverages on active duty. Funds may not be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds.
- Funds may not be used for employment or otherwise contracts for services of a lobbyist or for dues to an organization which employs or otherwise contracts for the services of a lobbyist.
- Funds may only be used for projects or programs for managing municipal solid waste. Funds may not be used for programs dealing with wastes that are not considered municipal solid waste, including programs dealing with industrial or hazardous waste.
- Except as may be specifically authorized in this Article or elsewhere in this Agreement, funds may not be used for expenses related to projects or facilities that require a permit from the TCEQ and/or that are located within the boundaries of a permitted facility, including landfills, wastewater treatment plants, and other facilities. This provision, however, may be waived by the TCEQ, at its discretion, for otherwise eligible activities to be located at a closed permitted facility and/or for recycling activities that will take place within the boundaries of an open facility. Recycling activities that may qualify for such a waiver may include recyclables collection, composting, and land application of bio-solids for beneficial use. The applicant and/or H-GAC will request a preliminary determination from the TCEQ as to the eligibility of the project prior to consideration for funding.
- Projects or facilities requiring a registration from the TCEQ, and which are otherwise eligible for funding must have received the registration before the project funding is awarded.
- Except as may be specifically authorized in this Article or elsewhere in this Agreement, funds may not be used for activities related to the collection or disposal of municipal solid waste. This restriction includes: solid waste collection and transportation to a disposal facility; waste combustion (incineration or waste-to-energy); processing for reducing the volume of solid waste which is to be disposed of; landfills and landfill-related facilities, equipment, or activities, including closure or post-closure care of a permitted landfill unit; or other activities and facilities associated with the disposal of municipal solid waste. This provision does not apply to activities specifically included under an authorized project category.

- Funds may not be used to assist an entity or individual to comply with an existing or pending federal, state, or local agreement or enforcement action. This restriction includes assistance to an entity to comply with an order to clean up and/or remediate problems at an illegal dumpsite. However, the TCEQ may waive this restriction, at its discretion and on a limited case-by-case basis, to address immediate threats to human health or the environment, and where it is demonstrated that the responsible party does not have the resources to comply with the order.
- Funds may not be used to pay penalties imposed on an entity for violation of federal, state, or local laws and regulations. This restriction includes expenses for conducting a supplemental environmental project (SEP) under a federal or state order or penalty. Funds may be used in conjunction with SEP funds to support the same project.

#### Local Enforcement

- As provided by the General Appropriations Act (80th Leg. R.S.), funds may not be expended to any law enforcement agency regulated by Chapter 1701, Texas Occupations Code, unless: (a) the law enforcement agency is in compliance with all rules on Law Enforcement Standards and Education; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.
- When funding is to be provided for salaries of local enforcement officers, the funds recipient must certify that at least one of the officers has attended or will attend within the term of the funding the TCEQ's Criminal Environmental Law Enforcement Training or equivalent training.
- Local enforcement vehicles and related enforcement equipment purchased entirely with funds provided under this program may only be used for activities to enforce laws and regulations pertaining to littering and illegal dumping, and may not be used for other code enforcement or law enforcement activities. Vehicles and equipment that are only partially funded must be dedicated for use in local enforcement activities for a percentage of time equal to the proportion of the purchase expense funded.
- Entities receiving funds for a local enforcement officer, enforcement vehicles, and/or related equipment for use by an enforcement officer, must investigate major illegal dumping problems, on both public and private property, in addition to investigating general litter problems on public property.
- Entities receiving funds to conduct a local enforcement program must cooperate with the TCEQ's regional investigative staff in identifying and investigating illegal dumping problems. Lack of cooperation with the TCEQ staff may constitute a reason to withhold future funding to that entity for local enforcement activities.
- Funds may not be used for investigation and enforcement activities related to the illegal dumping of industrial and/or hazardous waste. Instances where industrial or hazardous waste is discovered at a site do not preclude the investigation of that site, so long as the

intent and focus of the investigation and enforcement activities are on the illegal dumping of municipal solid waste.

- Grant funds may not be used for either the cleanup of illegal disposal sites or the transportation and/or disposal of wastes collected during such cleanups.

#### Litter and Illegal Dumping Cleanup and Community Collection Events

- Lake and River Cleanup events must be coordinated with the TCEQ's cleanup program staff and/or the Keep Texas Beautiful organization, which is contracted by the TCEQ to administer the Lake and River Cleanup program.
- Projects funded to clean up the litter or illegal dumping on private property must be conducted through a local government sponsor or H-GAC. Funds may not be provided directly to a private landowner or other private responsible party for cleanup expenses. The local government sponsor or H-GAC must either contract for and oversee the cleanup work, or conduct the work with its own employees and equipment.
- The costs for cleanup of hazardous waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment.
- The costs of cleanup of Class 1 nonhazardous industrial waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment. The cleanup of Class 2 and 3 nonhazardous industrial waste that may be found at a municipal solid waste site may be funded in conjunction with the cleanup of the municipal solid waste found at a site.
- All notification, assessment, and cleanup requirements pertaining to the release of wastes or other chemicals of concern, as required under federal, state, and local laws and regulations, including 30 TAC Chapter 330, TCEQ's MSW Regulations, and 30 TAC Chapter 350, TCEQ's Risk Reduction Regulations, must be complied with as part of any activities funded under this program.
- All materials cleanup up using funds provided under this Agreement must be properly disposed of or otherwise properly managed in accordance with all applicable laws and regulations. To the extent feasible, it is recommended that the materials removed from a site be reused or recycled. For projects to clean up large amounts of materials, H-GAC will consider withholding at least ten (10%) percent of the reimbursements under a pass-through grant or subcontract, until documentation is provided that the cleanup work has been completed and the materials properly managed.
- Periodic community collection events, to provide for collection and proper disposal of non-recyclable residential waste materials for which there is not a readily-available collection alternative, may be funded. This type of project may not include regular solid waste collection activities, such as weekly waste collection. Funded collection events

may be held no more frequently than four times per year, and must only be intended to provide residents an opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system, and might otherwise be illegally dumped by residents.

#### Source Reduction and Recycling

- Any program or project funded under this Agreement with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.

#### Local Solid Waste Management Plans

- All local solid waste management plans funded under this Agreement must be consistent with H-GAC's regional solid waste management plan, and prepared in accordance with Subchapter O of the TCEQ's Municipal Solid Waste regulations (30 TAC Subchapter O, Chapter 330) and the Content and Format Guidelines provided by the TCEQ. At least one year should be allowed for the completion and adoption of the local plan.

#### Citizens' Collection Stations and "Small" Registered Transfer Stations

- The design and construction of citizens' collection stations, as those facilities are defined under 30 TAC Chapter 330, TCEQ Regulations, may be funded. The costs associated with operating a citizens' collection station once it is completed may not be funded.
- The design and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.9(b) or a notification under §330.11(e), TCEQ Rules, may be funded. Other permitted or registered transfer stations may not be funded. A municipal solid waste transfer facility may be eligible for a registration if it serves a municipality with a population of less than 50,000, or a City with a population of less than 85,000, or is used in the transfer of 125 tons or less of municipal solid waste per day. A liquid waste transfer station may qualify for a registration if it will receive less than 32,000 gallons or less per day. The costs associated with operating a transfer station once it is completed may not be funded. A Citizen's Collection Station funded and constructed under the solid waste grants program which does not charge customers for services rendered qualifies to pursue implementation project funding under this agreement to cover periodic maintenance costs associated with the free services provided.

#### Household Hazardous Waste Management

- All household hazardous waste collection, recycling, and/or disposal activities must be coordinated with the TCEQ's HHW program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.
- First-time applicants may request funds for disposal costs. Second and subsequent year requests will be considered at the discretion of the Solid Waste Management Committee (SWMC).

### Technical Studies

- All technical studies funded under this program must be consistent with H-GAC's regional solid waste management plan, and prepared in accordance with guidelines provided by the TCEQ.

### Educational and Training Projects

- Educational and training programs and projects funded under this Agreement must be primarily related to the management of municipal solid waste, and funds applied to a broader education program may only be used for those portions of the program pertaining to municipal solid waste.

## ARTICLE 11 TITLE TO AND MANAGEMENT OF REAL PROPERTY AND EQUIPMENT

Subject to the obligations and conditions set forth in this Agreement, title to real property and equipment (together hereafter referred to in this Article as "property") acquired under this Agreement will vest, upon acquisition or construction, throughout the term of this Agreement, in the name of the CONTRACTOR.

1. Subject to the provisions of this Agreement and as otherwise provided by state statutes, property acquired or replaced under this Agreement or a pass-through grant contract shall be used for the duration of its normally expected useful life to support the purposes of this Agreement whether or not the original projects or programs continue to be supported by state funds.
2. The CONTRACTOR shall not grant or allow to a third party a security interest in any original or replacement property purchased or constructed with funds made available to the CONTRACTOR under this Agreement.
3. The use of property acquired under this Agreement, both during the term of this Agreement and for the useful life of the property or until compensation is provided to H-GAC/TCEQ for the applicable percentage share of the fair market value of the property, shall be in compliance with §361.014(b) of the TEXAS HEALTH & SAFETY CODE ANN., which directs that a project or service funded under this program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.
4. The CONTRACTOR may develop and use their own property management systems, which must conform with all applicable federal, state, and local laws, rules and regulations. If an adequate system for accounting for property owned by the CONTRACTOR is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system. The property management system used by the CONTRACTOR must meet the requirements set forth in this Section.

- Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
  - A physical inventory of all equipment acquired or replaced under this Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the CONTRACTOR shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The CONTRACTOR shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.
  - Certain types of equipment are classified as “controlled assets” and are subject to annual revision. In accordance with the UGMS, the CONTRACTOR should contact the Texas Comptroller of Public Accounts’ property accounting staff or review the Comptroller’s state Property Accounting User Manual available on the Internet, for the most current listing. Firearms shall be maintained on the CONTRACTOR’s inventory system irrespective of cost, and the following equipment with costs between \$500 and \$4,999.99 shall be maintained on the inventory system: (1) stereo systems, (2) still and video cameras, (3) facsimile machines, (4) video recorders (VCRs), laserdisc players, camcorders, and VCR/TV combinations , (5) desktop CPUs, printers, data projectors, portable CPU laptops; and (6) cellular and portable telephones. All single unit acquisitions greater than \$5,000.00 shall be maintained on the inventory system.
5. The CONTRACTOR, respectively, may for the purpose of replacing property acquired under this Agreement, either trade in or sell the property and use the proceeds of such trade-in or sale to offset the cost of acquiring needed replacement property.
  6. The CONTRACTOR agrees that if a determination is made that any property acquired with funds provided under this Agreement with a current per-unit fair market value of \$5,000 or more is no longer needed for the originally authorized purpose, H-GAC/TCEQ has the right to require disposition of the property by the CONTRACTOR in accordance with the provisions of this Article.
  7. When, during the useful life of property acquired with grant funds under this Agreement by the CONTRACTOR and with a current per-unit fair market value of \$5,000 or more, the property is no longer needed for the originally authorized purpose, the CONTRACTOR agrees to request disposition instructions from H-GAC/TCEQ. The CONTRACTOR shall request authorization from H-GAC/TCEQ to provide disposition instructions to the pass-through grant recipient. Disposition instructions shall solicit, at a

minimum, information on the source and amount of funds used in acquiring the property, the date acquired, the fair market value and how the value was determined (e.g., by appraisal, bids, etc.), and the proposed use of the proceeds. The assessment of whether to authorize the proposed disposition of the property must include a determination that the disposition plan will comply with the private industry provisions of §361.014(b) of the TEXAS HEALTH & SAFETY CODE ANN. In cases where the CONTRACTOR fails to take appropriate disposition actions, H-GAC/TCEQ may direct the CONTRACTOR to take disposition actions. The disposition instructions may provide for one of the alternatives as set forth in this Section.

- Retain title, sell, or otherwise disposed of with no obligation to compensate H-GAC/TCEQ.
  - Retain title after compensating H-GAC/TCEQ. The amount due will be computed by applying the percentage of state-funded participation in the cost of the original purchase to the fair market value of the property.
  - Sell the property and compensate H-GAC/TCEQ. The amount due will be calculated by applying H-GAC/TCEQ's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When the CONTRACTOR is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.
  - Transfer title to H-GAC/TCEQ, or to a third-party designated/approved by H-GAC/TCEQ. If the CONTRACTOR participated financially in the original purchase of the property, the CONTRACTOR may be authorized payment from the receiving party of an amount calculated by applying the percentage of the participation in the original purchase of the property to the current fair market value of the property.
8. Items of property with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by the CONTRACTOR with no further obligation to H-GAC/TCEQ. Methods used to determine per-unit fair market value must be documented, kept on file and made available to H-GAC/TCEQ upon request.
9. Real property must be maintained on an Inventory and is subject to the requirements of UGMS, Part III, Subpart C, .31. Subject to the obligations and conditions set forth in this Agreement, title to real property acquired under this Agreement by the CONTRACTOR will vest upon acquisition or construction in the CONTRACTOR respectively.

## ARTICLE 12 INSURANCE

H-GAC understands that CONTRACTOR is governed by the Texas Tort Claims Act, Chapter 101.001 et seq., Texas Civil Practice and Remedies Code Ann., as amended, which sets forth certain limitations and restrictions on the types of liability and the types of insurance coverage that can be required of CONTRACTOR. H-GAC further understands that CONTRACTOR in effect has either adequate coverage to meet claims under the Act or is self-insured for all claims falling within the Texas Tort Claims Act. H-GAC further understands that CONTRACTOR is self-insured for workers compensation insurance as provided by Chapter 504, Texas Labor Code Ann., as amended.

#### ARTICLE 13 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)

The CONTRACTOR agrees that qualified Historically Underutilized Businesses (HUBs) shall have the maximum practicable opportunity to participate in the performance of this Agreement.

#### ARTICLE 14 ENERGY EFFICIENCY STANDARDS

The CONTRACTOR shall follow standards and policies on energy efficiency which are contained in the Texas State Energy Conservation Plan.

#### ARTICLE 15 LAWS AND REGULATIONS

The CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable Laws and Regulations, H-GAC shall not be responsible for monitoring Agreement's compliance with any Laws or Regulations.

If the CONTRACTOR performs any work knowing or having reason to know that it is contrary to Laws or Regulations, the CONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.

#### ARTICLE 16 UNIFORM GRANT AND CONTRACT MANAGEMENT ACT

The provisions of Uniform Grant and Contract Management Act, TEXAS GOVERNMENT CODE, Chapter 783 applies to this Agreement, all amendments thereto, and all subcontracts and sub-agreements. Compliance with the conditions and requirements contained therein is necessary for the satisfactory performance of the services and work required under this Agreement.

#### ARTICLE 17 DATA AND PUBLICITY

All data and other information developed under this Agreement shall be furnished to H-GAC and shall be public data and information except to the extent that it is exempted from public access by the Texas Public Information Act, TEX. GOV'T CODE Chapter 552 ("Act"). Upon termination of this Agreement, all copies of data and information shall be furnished, at no charge to H-GAC and TCEQ, upon request, to include data bases prepared using funds provided under this Agreement, and become the property of H-GAC and TCEQ. Except as otherwise provided by

the Agreement or the Act, the CONTRACTOR shall not provide data generated or otherwise obtained in the performance of its responsibilities under this Agreement to any party other than the State of Texas and its authorized agents.

#### ARTICLE 18 ACKNOWLEDGMENT OF FINANCIAL SUPPORT

The CONTRACTOR shall acknowledge the financial support of H-GAC and the TCEQ and the State of Texas whenever work funded, in whole or part, by this Agreement is publicized or reported in news media or publications. All reports and other documents completed as a part of this Agreement, other than documents prepared exclusively for internal use within the CONTRACTOR, shall carry the following notation on the front cover or title page.

*PREPARED IN COOPERATION WITH THE HOUSTON-GALVESTON AREA COUNCIL AND TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.*

*The preparation of this report was financed through grants from the State of Texas through the Texas Commission on Environmental Quality and the Houston-Galveston Area Council.*

#### ARTICLE 19 DESIGN REVIEW

The CONTRACTOR shall comply with and incorporate into the applicable design and related data all H-GAC review comments and subsequent design instructions. Compliance will be assumed, unless H-GAC is advised in writing over the signature of the CONTRACTOR to the contrary, giving detailed and complete justification for such proposed exception.

#### ARTICLE 20 PERMITS AND APPROVALS

The CONTRACTOR shall obtain applicable drawing and specification approvals and permits from government authorities and governing bodies as may be required for the design of the Project. All changes that may be required, to the drawings, specifications, or both of these that are necessary to obtain these approvals, are within the scope of services of the Agreement.

Unless otherwise provided in the Agreement, the CONTRACTOR shall obtain and pay for all construction permits and licenses. The CONTRACTOR shall pay all charges of utility owners for connections to the work, and the CONTRACTOR shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

#### ARTICLE 21 REQUIREMENT OF REGISTRATION OF DESIGNERS

The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered to practice in the particular profession field involved in the State of Texas.

#### ARTICLE 22 MUNICIPAL SOLID WASTE DISPOSAL AND TRANSPORTATION REVENUE FEE

It is the understanding of the parties that the source of the funds provided by H-GAC and TCEQ is the Municipal Solid Waste Disposal and Transportation Revenue Fee (MSWDTRF). Due to demands upon that source for funds necessary to protect the health and safety of the public, it is possible that the funds contained in the MSWDTRF will be depleted prior to completion of this Agreement. The parties agree that all funding arranged under this Agreement is subject to sufficient funds in the MSWDTRF.

#### ARTICLE 23 SAFETY AND PROTECTION

Where applicable, the CONTRACTOR shall be responsible for requiring subcontractors and subgrantees to maintain and supervise all necessary safety precautions and programs in connection with the work. The CONTRACTOR shall take all necessary safety precautions.

#### ARTICLE 24 HAZARDOUS SUBSTANCES, WASTE DISPOSAL AND MANIFESTS

The CONTRACTOR, subcontractors and sub-grantees must comply with all applicable Laws and Regulations, including but not limited, to those relating to hazardous substances, waste disposal and manifests.

#### ARTICLE 25 INTELLECTUAL PROPERTY REQUIREMENTS

Intellectual Property requirements as set forth in this Section.

1. Royalties and Patent Fees. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use or possession in the performance of the work or the incorporation in the work of any Intellectual Property.
2. Disclosure of Intellectual Property Produced during the work. CONTRACTOR shall promptly notify H-GAC of all Intellectual Property which CONTRACTOR or CONTRACTOR's employees, subcontractors, or subcontractor's employees may *produce*, either solely or jointly with others, during the course of the work. In addition, CONTRACTOR shall promptly notify H-GAC of all Intellectual Property to which CONTRACTOR may acquire rights in connection with the performance of the work. Any notification under this paragraph shall contain sufficient technical detail to convey a clear understanding of the Intellectual Property, and shall identify any publication, sale, public use, or impending publication. Promptly upon request, CONTRACTOR shall supply such additional information as H-GAC may request.
3. Grant of License. With respect to such Intellectual Property as is (i) incorporated in the work (other than Intellectual Property for which H-GAC/TCEQ already possesses equal or greater Intellectual Property Rights by virtue of this Agreement or otherwise), (ii) *produced* by CONTRACTOR or CONTRACTOR's employees, subcontractors, or subcontractor's employees during the course of performing the work, or (iii) specifically identified in the Supplemental Conditions as Intellectual Property to which Intellectual Property Rights are granted pursuant to this paragraph, CONTRACTOR hereby grants to H-GAC and TCEQ (i) a nonexclusive, perpetual, irrevocable, enterprise-wide license to

reproduce, publish, or otherwise use such Intellectual Property and associated use documentation, and (ii) a nonexclusive, perpetual, irrevocable, enterprise-wide license to authorize others to reproduce, publish, or otherwise use such Intellectual Property for H-GAC and TCEQ's purposes.

4. Modification; Derivative Works. H-GAC and/or TCEQ shall have the right, in its own discretion, to independently modify any Intellectual Property to which license is granted herein H-GAC and/or TCEQ's own purposes and use, through the services of its own employees or independent contractors. H-GAC and/or TCEQ shall own all Intellectual Property Rights to such modifications. CONTRACTOR shall not incorporate any such modifications into its Intellectual Property for distribution to third parties unless it first obtains a license from H-GAC and/or TCEQ.
5. CONTRACTOR shall comply with all Laws and Regulations relating to Intellectual Property. CONTRACTOR represents and warrants to H-GAC that CONTRACTOR will not infringe any Intellectual Property Right of any third party. CONTRACTOR further represents and warrants to H-GAC that in the course of performing the work it will not use or possess any Intellectual Property owned by a third party without paying any required royalty or patent fees. CONTRACTOR warrants that it has full title in and ownership of the Intellectual Property and any enhancements, updates or other modifications, or that it has full power and authority to grant all licenses granted herein, and that such license use by H-GAC will in no way constitute an infringement or other violation of any Intellectual Property right of any third party. The CONTRACTOR warrants that it shall have, throughout any applicable license term hereunder, free and clear title to, or the right to possess, use sell, transfer, assign, license, or sublicense, products that are licensed or provided hereunder to H-GAC by CONTRACTOR. Except as permitted in the Agreement, CONTRACTOR shall not create or permit the creation of any lien, encumbrance, or security interest in the work or any part thereof, or any product licensed or provided hereunder to H-GAC for which title has not yet passed to H-GAC, without the prior written consent of H-GAC. CONTRACTOR represents and warrants to H-GAC that neither it nor any other company or individual performing the work is under any obligation to assign or give to any third party any Intellectual Property rights granted or assigned to H-GAC, or reserved by H-GAC, pursuant to the Agreement.
6. CONTRACTOR expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements under section 2157.005 of the Government Code, relating to accessibility by persons with visual impairments. Accordingly, the CONTRACTOR represents and warrants to H-GAC that the technology provided to H-GAC for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of (1) providing equivalent access for effective use by both visual and non-visual means; (2) presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase "equivalent access" means

a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

7. The CONTRACTOR shall include provisions adequate to effectuate the purposes of this paragraph in all subcontracts and sub-grants under this Agreement in the course of which Intellectual Property may be produced or acquired.

#### ARTICLE 26 ACCOUNTING SYSTEMS

The CONTRACTOR shall have an accounting system which accounts for costs in accordance with generally accepted accounting standards or principles and complies with applicable State law, regulations, and policies relating to accounting standards or principles. The CONTRACTOR must account for costs in a manner consistent with such standards or principles.

#### ARTICLE 27 SURVIVAL OF OBLIGATIONS

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Agreement, as well as all continuing obligations indicated in the Agreement, will survive final payment, completion and acceptance of the work and termination or completion of the Agreement.

#### ARTICLE 28 CONTRACTUAL COSTS

CONTRACTOR's contractual costs must comply with allowable cost requirements. CONTRACTORS which are governmental entities must engage in contractor selection on a competitive basis in accordance with their established policies. If CONTRACTOR has no competitive procurement policy or is a private entity, CONTRACTOR must generally select contractors by evaluation and comparison of price, quality of goods or services and past performance. All subgrants awarded by the CONTRACTOR under this Agreement shall be in accordance with Subpart C, Sec. \_\_.37, Subsection (b) of the State Uniform Administrative Requirements for Grants and Cooperative Agreements as set forth in Part III of the *Uniform Grant Management Standards* adopted by the Governor's Office of Budget and Planning.

#### ARTICLE 29 AUTHORIZED REPRESENTATIVES

- A. H-GAC hereby designates the person in Exhibit 1, Project Representative, as the individual authorized to give direction to the CONTRACTOR for the purposes of this Agreement. The H-GAC Project Representative shall not be deemed to have authority to bind H-GAC in Agreement unless the EXECUTIVE DIRECTOR of H-GAC has delegated such authority.

- B. Immediately upon receiving the Purchase Order or Notice of Award, the CONTRACTOR shall identify, as its Project Representative, the person authorized to receive direction from H-GAC, to manage the work being performed, and to act on behalf of the CONTRACTOR. The CONTRACTOR Project Representative shall be deemed to have authority to bind the CONTRACTOR in Agreement unless the CONTRACTOR, in writing, specifically limits or denies such authority to the CONTRACTOR Project Representative.
- C. Either party may change its Project Representative. In addition, the Project Representative of either party may further delegate his or her authority as necessary, including any delegation of authority to a new Project Representative. The party making the change in Project Representative shall provide written notice of the change to the other party.
- D. The CONTRACTOR shall ensure that its Project Representative, or his or her delegate, is available at all times for consultation with H-GAC.

Exhibit 1

H-GAC hereby designates the individuals named below as the person authorized to receive direction from the TCEQ, to manage the work being performed, and to act on behalf of H-GAC as a Project Representative:

Primary: Cheryl Mergo  
Sustainable Development Program Manager  
Houston-Galveston Area Council  
P.O. Box 22777  
Houston, Texas 77227-2777  
TEL - 713-993-4520 FAX (713) 993-4503  
Email address: [cheryl.mergo@h-gac.com](mailto:cheryl.mergo@h-gac.com)

## ATTACHMENT A

### Fort Bend County

**Project Description:** Fort Bend County will use funds to support the existing local enforcement program by purchasing a new truck.

#### **Task I: Attend Mandatory Grants Administration Workshop**

**Activity and/or Deliverable** – A Mandatory Grants Administration Workshop will be hosted by H-GAC in March 2012 for FY12/13 Solid Waste Implementation Grant program and financial staff. Both program and financial representatives are required to attend.

**Schedule of Activity and/or Deliverable (in weeks or months)** – 1 week.

#### **Task II: Select and Purchase Appropriate Equipment**

**Activity and/or Deliverable** – Fort Bend County will purchase a truck. Fort Bend County staff will review trucks that meet the requirements and budget limitations. County staff will purchase the truck following established procurement procedures.

**Schedule of Activity and/or Deliverable (in weeks or months)** – 1-2 months.

#### **Task III: Place the Truck into Use**

**Activity and/or Deliverable** – The truck will be put into use. It will be used to support the Fort Bend County local enforcement program.

**Schedule of Activity and/or Deliverable (in weeks or months)** – On-going upon delivery.

#### **Task IV: Progress Reporting**

**Activity and/or Deliverable** – Progress Reports will be submitted to H-GAC. H-GAC will provide the appropriate reporting forms. Forms must be submitted even if there is no activity to report. One year follow-up report will be submitted.

- Due dates for Progress Reports

**December 10, 2012 (September – November)**

**March 10, 2013 (December – February)**

**June 10, 2013 (March – May)**

**July 10, 2013 (June)**

**Follow-up Report – September 2014**

**Schedule of Activity and/or Deliverable (in weeks or months)** – As scheduled above. If the 10<sup>th</sup> day of the month falls on a weekend or holiday the report is due the following business day.

#### **Task V: Financial Reporting**

**Activity and/or Deliverable** - Financial reporting with appropriate documentation will be submitted monthly to H-GAC for reimbursement. H-GAC will provide the appropriate financial forms. Forms must be submitted even if no reimbursement is requested.

**Schedule of Activity and/or Deliverable (in weeks or months)** – Monthly on the 10<sup>th</sup>. Final reimbursement request is due 31 days after grant termination. If the 10<sup>th</sup> day of the month falls on a weekend or holiday the report is due the following business day.

**Task VI: Additional Reporting**

**Activity and/or Deliverable** – Fort Bend County will respond to surveys and/or other requests from H-GAC or TCEQ for information on municipal solid waste management activities.

**Schedule of Activity and/or Deliverable (in weeks or months)** – As requested.

**ATTACHMENT B  
Contract Budget  
Fort Bend County Enforcement**

<b>GRANT BUDGET SUMMARY</b>	
<b>Budget Categories</b>	<b>H-GAC Solid Waste (Grant Funding)</b>
1. Personnel (Salary)	\$0.00
2. Fringe Benefits	\$0.00
3. Travel	\$0.00
4. Supplies (unit cost of less than \$1,000)	\$0.00
5. Equipment (unit cost of \$1000 or more)	\$35,772.00
6. Construction	\$0.00
7. Contractual (other than for construction)	\$0.00
8. Other	\$0.00
9. Indirect charges	\$0.00
<b>TOTAL</b>	<b>\$35,772.00</b>

10. Fringe Benefit Rate:	0%
11. Indirect Cost Rate:	0%

<b>1. Personnel (Salary)</b>					
<b>Position</b>	<b>Function</b>	<b>Status (FT/PT) perm/temp</b>	<b>Monthly Salary</b>	<b>Time (%FTE)</b>	<b>Salary Funded</b>
			\$0.00	0%	\$0.00
			\$0.00	0%	\$0.00
			\$0.00	0%	\$0.00
			\$0.00	0%	\$0.00
			\$0.00	0%	\$0.00

<b>3. Travel</b>		
<b>Position</b>	<b>Purpose of travel</b>	<b>Travel Funded</b>
		\$0.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00

<b>4. Supplies</b>	
<b>Type of Supplies</b>	<b>Supplies Funded</b>
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

<b>5. Equipment</b>				
<b>Equipment</b>	<b>Model</b>	<b>Unit Cost</b>	<b>No. of Units</b>	<b>Equipment Funded</b>
Truck	F-150 Super Crew Pick-up	\$35,772.00	1	\$35,772.00
		\$0.00	0	\$0.00
		\$0.00	0	\$0.00
		\$0.00	0	\$0.00
		\$0.00	0	\$0.00

6. Construction		
Type of Construction	Sub-Contracted (Y/N)	Construction Funded
		\$0.00
		\$0.00

7. Contractual		
Contractor	Purpose	Contract Funded
		\$0.00
		\$0.00
		\$0.00

8. Other				
Type/Other	Description	Other Funded		
	Postage / Delivery			\$0.00
	Postage / Delivery			\$0.00
	Utilities			\$0.00
	Printing / Reproduction			\$0.00
	Signage			\$0.00
	Record Storage			\$0.00
	Office Space			\$0.00
	Basic Office Furnishings			\$0.00
	Equipment Rentals			\$0.00
	Books / Subscriptions			\$0.00
	Repair / Maintenance			\$0.00
	Legal Services			\$0.00
	Temporary Services			\$0.00
	Description	Unit Cost	No. of Units	Other / Eqmt. Funded
	Recycling Bins			\$0.00
	Recycling Bins			\$0.00
	Personal Protective Equipment			\$0.00
	Personal Protective Equipment			\$0.00
	Personal Protective Equipment			\$0.00
	Computer Hardware			\$0.00
	Computer Software			\$0.00
	Promotional Item			\$0.00
	Promotional Item			\$0.00
	Promotional Item			\$0.00
	Promotional Item			\$0.00
	Other Equipment (<\$5,000)			\$0.00
	Additional Other			\$0.00
	Additional Other			\$0.00
	Additional Other			\$0.00

Grant App #24

Applicant Info	Budget	Project Merits and Needs	Local Resources & Commitments	Project Cost Evaluation	Additional Program Information	Regional SWMP	Private Industry	Similar Programs	Notification Signature
<b>Information</b>									
Applicant/Receiving Party: Fort Bend County					Department/Division: Environmental Health				
Primary Project Contact - Authorized Representative: Troy Scalco					Project Contact Title: Director				
Street Address: 4520 Reading Rd, Suite A					Primary Project Contact's Direct Telephone/Fax: 281-238-3532 / 281-342-5572				
City:	State:	Zip Code:	County:	Email Address: scalctro@co.fort-bend.tx.us					
Rosenberg	Texas	77471	Fort Bend	Financial Contact Title: County Auditor					
Primary Financial Contact - Authorized Representative: Ed Sturdivant					Primary Financial Contact's Direct Telephone/Fax: 281-341-3760 / 281-341-3774				
Street Address: 301 Jackson St, Suite 533					Email Address: sturdrob@co.fort-bend.tx.us				
City:	State:	Zip Code:							
Richmond	Texas	77465							

**Eligible Entities**

To be eligible for this grant program you must fit into one of the categories listed below.

County

**FY12/13 REGIONAL PRIORITIES**

For FY12/13, the Solid Waste Management Committee (SWMC) has identified some specific needs in solid waste infrastructure and programs throughout the region. A higher priority will be placed on the projects supporting the priorities. See Grants Announcement, Section IV for detailed information. This is worth up to 10 points in the scoring. H-GAC staff will ultimately determine if an application qualifies as a regional priority project.

Is this project a regional priority project?

No

**Grant/Project Information (Pick ONE Category Only)**

Project Title:  
Fort Bend County Environmental Enforcement Unit

Which grant category does this program fall under?  
Local Enforcement

Population Served by Project:  
504815

**Proposed Funding:**

Grant Request: \$35,772

Applicant's Match: \$200,000

Total Project Amount: \$235,772

BRIEF Project Description:

Grant App #24

Equipment: Investigator Enforcement Vehicle with associated equipment used to investigate illegal dumping of municipal and general littering on both public and private properties.

Grant App #24

Budget Categories	Funding Request
1. Personnel (Salary)	
2. Fringe Benefits	
3. Travel	
4. Supplies (unit cost of less than \$1,000)	
5. Equipment (unit cost of \$5,000 or more)	\$35,772
6. Construction	
7. Contractual (other than for Construction)	
8. Other	
9. Indirect charges	
<b>TOTAL</b>	<b>\$35,772</b>

**1. Personnel (Salary)**

Position	Function	Status FT/PT, perm/temp	Monthly Salary	Time (% FTE)	# of Months	Salary Request
				%		

**3. Travel**

Position	Destination	Purpose	Travel Request
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Narrative:

**4. Supplies (Unit cost of less than \$1,000)**

Description	Purpose	Supply Request
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Narrative:

**5. Equipment (Unit price of \$5,000 or more)**

Description	Purpose	Equipment Request
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Ford F-150 SuperCrew Pick Up	Enforcement Vehicle with related equipment attached.	\$35,772
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Narrative:

**6. Construction**

Description	Purpose	Sub-Contracted	Construction Request
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Narrative:

**7. Contractual**

Contractor	Purpose	Contractual Request
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Narrative:

**8. Other**

Type Other	Description	Purpose	Other Request
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Grant App #24

- Postage/Delivery
- Telephone/Fax
- Utilities
- Printing/Reproduction
- Advertising/Public Notices
- Signage
- Training/Registration Fees
- Dues/Membership Fees
- Office Space
- Basic Office Furnishings
- Equipment Rentals
- Books/Subscriptions
- Repair/Maintenance
- Legal Services
- Temporary Services

Narrative:

Type Other (Cont.)	Description	Purpose	No. of Units	Other Request
	Recycling Bins			
	Recycling Bins			
	Personal Protective Equip.			
	Personal Protective Equip.			
	Personal Protective Equip.			
	Computer Hardware			
	Computer Software			
	Audio/Visual Equipment			
	Audio/Visual Equipment			
	Educational Item			
	Educational Item			
	Educational Item			
	Other Equip. (<\$5,000)			
	Other Equip. (<\$5,000)			
	Other Equip. (<\$5,000)			
	Additional Other			
	Additional Other			
	Additional Other			

Narrative:

**9. Indirect Charges**

Identify your indirect rate. Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied.	Indirect Cost Rate (%)	Indirect Request

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**Project Merits and Needs:** *(Up to 40 Points)*

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## Project Title:

Local Enforcement, Fort Bend County Environmental

## Need for Project:

This proposed project will reinvest in an existing local enforcement program ( the Fort Bend County Environmental Enforcement Unit - E.E.U) by funding one (1) Environmental Investigator enforcement vehicle and associated equipment used for investigating, educating and criminal prosecuting illegal dumping of municipal solid waste and general littering on both public and private properties. Achieving our objectives and performing these duties are dependent on mobility specialized for use in enforcement activity. The vehicle is the second leading tool that a program must depend on to obtain these objectives. The current and projected growth demands of Fort Bend County over the next five (5) years warrant the requirement for an adequately equipped Environmental Enforcement program. The project will benefit the assurance to maintain our current case loads. In addition, it will provide us the ability to increase our activities and results far beyond the two year project period. Additionally, the budget deficits have caused a reorganization or realignment of State agencies such as Texas License Commission resulting in an elimination of State positions or consolidations of programs. Many of these positions are directly related to inspection and enforcement with State permitted operations. Several operations located in Fort Bend County are not regulated or permitted by Fort Bend County. However, the State agencies are beginning the practice of referring complaints to the County.

## Objective:

Our mission is accomplished by actively patrolling the county, investigating illegal dumping, identifying violators, education and prosecution. Other goals work toward reducing the amount of identified dumping sites; assuring waste is removed and disposed in approved landfill operations. Additional new case goals include inspections of junk/salvage yards, cement plant operations, and cooperation with the complaints received from the TCEQ's regional office. There has been a 50% increase in the population of Fort Bend County from 2005. Surrounding counties have tighten their enforcement resulting in illegal transporters, dumpers and new junk/salvage operations venturing into Fort Bend County.

## Project Feasibility:

This project will reinvest as well as enhance an the existing enforcement unit (E.E.U). This enforcement unit has been in operation since October of 2002. The inception of this program dates to 1997. The existing program has received funding from H-GAC in the past and intends to maintain the objectives within H-GAC guidelines and expectations. We continue to maintain an aggressive stance against illegal dumping in Fort Bend County. Through continued support from the Commissioners Court and cooperation of H-GAC, this program will remain a viable unit.

## Outreach:

The EEU achieves increased awareness to the crime of illegal dumping. The importance of proper waste disposal and recycling is taught to the general public, institutions, regulated establishments, neighborhood associations and various community organizaitons. In September 2010, the Environmental Health Department established an 8 hour TCLOSE credited course to educate patrol officers and other local law enforcement agencies. This course is provided at the Gus George Academy as a central location for all law enforcement agencies in the tri counties. We intend to maximize our efforts in this area of education. Additionally, we provide technical support and case development assistance to local municipalities and other agencies.

## Innovation:

Since 2003, this local program's enforcement actions identified and assisted to clean 1,499 illegal dumping sites and more than 2.2 million pounds of solid waste has been removed from dumping sites. Over 746 cases have been prosecuted and violators have spent more than 2,700 days in jail. Fort Bend County Environmental enacted the regulation of solid waste haulers and a local order to regulate junk vehicles. FBC Environmental were pioneers in inventing covert placement and utilizing game cameras for surveillance. Our program has also provided cross-over results where illegal dumping lead to the seizing of 72,000 lbs. of marijuana and 10 kilos of cocaine. One illegal dumping case discovered evidence for the convection of a murder. The effectiveness of our program is measurable by the attached Impact Reports.

Grant App #24

**Local Resources and Commitments:** *(Up to 25 Points)*

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## Ability to Sustain Project:

The E.E.U. has been in operation since October of 2002. The inception of this program dates to 1997. The existing program has received funding from H-GAC in the past and intends to maintain the objectives within H-GAC guidelines. The County additionally funds 100% of salaries for three full time investigators, equipment, supplies and related normal operational costs. In the FY 06 Budget Year, the Commissioner's Court approved continued funding for the third Investigator position when the H-GAC grant contract expired. Additionally, Commissioner's Court is supporting the Fort Bend County District Attorney's Office when the circuit rider program ended in July 31, 2009. The Fort Bend County District Attorney, John Healy, provided additional training for two felony and two misdemeanor attorneys and delegated one Assistant DA staff to our cases. The Fort Bend County District Attorney's Office continues to take an aggressive stance with the prosecution of the Environmental Enforcement Unit.

## Matching Funds or In-Kind Services:

Fort Bend County devotes in-kind services towards the operation of the Environmental Enforcement Unit for three full time investigators, one supervisor, support staff services, equipment, supplies and related operational costs of over \$200,000. Fuel, preventative maintenance, insurance and related operational cost of the requested vehicle will be provided by Fort Bend County.

## Partnerships:

Our partners include a web of region-wide membership of environmental professionals with solid waste emphasis. County departments, such as, CSCD (Adult Probation) to remove litter from roads that are chronic dump sites; Road and Bridge, Drainage Departments, used to assist in monitoring and removing waste; Recycle Center and the assistance to local municipalities and communities to assure waste is removed and disposed in approved landfill operations or recycled.

Grant App #24

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**Project Cost Evaluation:** *(Up to 25 Points)*

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**Economic Viability:**

Illegal dumping costs our local governments and taxpayers each year for cleaning up wastes deposited by uncaring individuals. The EEU actions show results in measurable cost savings reduction to the county and/or taxpayer(s). Our proactive stance on illegally dumping and our active prosecution works toward requiring identified violator(s) to remediate the locations they have violated. Diverting solid waste to approved land fields provides an indirect impact on tipping fees.

**Cost Per Impacted Capita:**

.0711

Request amount divided by population served. This project services primarily the unincorporated areas of Fort Bend County. However, the Environmental Health Department has yearly Inter-Local Agreements with the following cities and villages within Fort Bend County: Cities of Orchard, Simonton, Beasley, Fulshear, Kendleton and the Villages of Pleak and Fairchilds. The EEU is not the lead agency for these cities, but provides technical assistance, education and networking for these cities with environmental investigations, recycling and other environmental issues.

**Anticipated Effectiveness:**

This project will reinvest to not only maintain the current level of activity, but promote the development of an effective program. The current and projected growth demands to Fort Bend County over the next five (5) years warrant the requirement for a well equipped Environmental Enforcement program. As surrounding counties tighten their enforcement, illegal transporters and dumpers will proceed into Fort Bend County.

Grant App #24

**Staff**


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Are enforcement staff certified peace officers?

Yes

How many employees are in the environmental enforcement program?

4.75

**Equipment**


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If you are requesting funds to purchase equipment, what will the equipment be used for?

This vehicle will be assigned to one Investigator and will be used directly for use in investigating, combating illegal dumping of municipal solid waste, general litter problems on both public and private properties and to service our Adopt-A-County Road programs. During emergency operations or events this vehicle will be utilized to assist when needed.

How often will the equipment be used?

Daily, to include, weekends and on call.

Do you have adequate space to store the equipment?

Yes

Will the equipment be used for solid waste purposes 100% of the time?

Yes

If not, what is the percentage of time it will be used for solid waste purposes?

**Existing Programs**


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Is this an existing program?

Yes

Date of inception

10/01/1997

Have you received past grant funding for your local environmental enforcement program?

Yes

If you answered yes to the above question, describe how funding is improving or supporting the program.

The program has received funding from H-GAC in the past and intends to maintain the objectives within H-GAC expectations. From the small beginnings of the program, our success is derived directly from the support from past funding grants. We were able to expand the existing local enforcement with an additional third investigator position salary and equipment through the FY 06 Budget, approved by Commissioner's Court. Without H-GAC's commitment, there would have been no Circuit Rider Program which concluded in July 31, 2009. Past grants have also provided the ability through technology to gain access to the Fort Bend County Sheriffs Law Enforcement database.

**Prosecution**


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Are cases handled civilly, criminally, or both?

Criminally

Do you have the support of your management and elected officials to adequately prosecute offenders? Describe.

Yes, Fort Bend County funds 100% of salaries for three full time investigators, program supervisor, support staff, equipment, supplies and related normal operational costs.

Additionally, Commissioner's Court is supporting the Fort Bend County District Attorney's Office. With the conclusion of the circuit rider program in July 31, 2009, the Fort Bend County

**Grant App #24**

District Attorney, John Healy provided additional training for two felony and two misdemeanor attorneys and assigned one Assistant DA staff to our program. The Fort Bend County District Attorney's Office continues to take an aggressive stance with the prosecution of the E.E.U. cases. For what percent of cases has a responsible party been found in the last two years?

51.2

What percent of cases, for which a responsible party was found, were prosecuted during the last two years?

34.8

What has been your success rate during the last two years at having fines assessed for cases prosecuted?

28.1

What is the total amount of fines assessed during the last two years?

\$98,406.00

**Training**

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If staff will require training have you planned for this in your budget or otherwise?

Yes,

**Educational Component**

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What educational items will you be purchasing?

None Utilizing pamphlets obtained through previous grants and received from H-GAC.

What is the specific purpose and message of the education items?

The EEU participates at various community, public outreach events and County functions in order to bring awareness to the crime(s) of illegal dumping and the education of proper waste disposal and recycling.

Describe your distribution plan of the items?

Distribution routinely counted and documented on number of verbal contacts made within groups.

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CONSISTENCY WITH REGIONAL SOLID WASTE MANAGEMENT PLAN

**Evaluation of Consistency with Regional Solid Waste Management Plan:**

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Is proposed project consistent with H-GAC's regional plan?

Yes, Fort Bend County is in Sub Region 7 of the SWMP 2002-2020. Fort Bend County Environmental Health's EEU is continuing it's effort toward Objective 1D: "Support regional and local efforts to identify areas with litter and illegal dumping problems." Additionally, the EEU's efforts works toward on-going public awareness to encourage waste minimization, reduction and recycling.

Grant App #24

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**PRIVATE INDUSTRY NOTIFICATION****Private Industry Notification: List of Other Entities Which Provide a Similar or Related Service. FOR PROJECT TYPES LISTED, THIS SECTION MUST BE COMPLETE IN ORDER TO BE CONSIDERED FOR FUNDING**

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This section is applicable only to the following grant categories:

- a. Source Reduction and Recycling
- b. Citizens' Collection Stations and "Small" Registered Transfer Stations
- c. A demonstration project under the Education and Training project category

According to state law, a project or service funded under this program must promote cooperation between public and private entities (by definition includes non-profit organizations), and may not be otherwise readily available or create a competitive advantage over a private industry (by definition includes non-profit organizations) that provides recycling or solid waste services. If the proposed project provides a service, in the spaces below, list all known private service providers in the affected geographic area known to provide a similar or related service and summary your discussion with the providers. You must comply with the notification requirements. Please attach additional pages if needed.

<b>Private Service Providers Contacted</b>	<b>Name and Position</b>	<b>Date Notified</b>	<b>Method of Contact</b>
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N/A

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**Summaries of Discussions with Private Industry**

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N/A

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## SIMILAR PROGRAMS

**List similar programs that you have visited and/or researched.**

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<b>County/Neighboring Jurisdiction</b>	<b>Contact Name</b>	<b>Date of Contact</b>	<b>Summary</b>
Walker County	Robert Knight	11-09-2011	Local Enforcement Program

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**Signature**

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✓ By checking this box, the Applicant certifies that it has reviewed the certifications, assurances and deliverables included in this application, that all certifications are true and correct, that assurances have been reviewed and understood, and that all required deliverables are included with this application submittal.

Name:

Robert E. Hebert

Title:

County Judge

Date Signed:

12/06/2011



**CONTRACT PRICING WORKSHEET**  
For Standard Equipment Purchases

Contract No.:

VE03-06

Date Prepared:

11/7/11

*This Form must be prepared by Contractor and given to End User. The H-GAC administrative fee shall be shown in Section F. End User issues PO to Contractor, and MUST also fax a copy of PO, together with completed Pricing Worksheet, to H-GAC @ 713-993-4548. Please type or print legibly.*

Buying Agency:	FORT BEND COUNTY ENVIRONMENTAL HEALTH	Contractor:	PHILPOTT MOTORS
Contact Person:	TROY SCALCO	Prepared By:	DAVID REAGAN
Phone:	281-238-3532	Phone:	409-727-1451
Fax:	281-342-5572	Fax:	409-724-0934
Email:	scalctro@co.fort-bend.tx.us	Email:	david.reagan@philpottmotors.com

Product Code:	D24	Description:	2012 FORD SUPERCAB
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**A. Product Item Base Unit Price Per Contractor's H-GAC Contract:** \$ 15,839.00

**B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.**  
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
AUTOMATIC TRANSMISSION	\$ -	XH9 LIMITED SLIP DIFFERENTIAL	\$ 270.00
AIR CONDITIONING	\$ -	535 TRAILER TOW PACKAGE	\$ 350.00
W12 SUPERCREW UPGRADE (4DR 5.5' BOX)	\$ 4,443.00	18 SPRAY IN BEDLINER	\$ 445.00
99v 5.0 FFV V8 GAS ENGINE	\$ 761.00	2ea W.PSB00FRB BLUE LED STRIP LIGHT	\$ 166.00
507A XLT UPGRADE	\$ 2,096.00	21 BLACK HEADACHE RACK	\$ 335.00
4x2	INCL	8 FS.MS100 DYNAMAX SPEAKER w/BRKT	\$ 213.00
FLOOR PLAN INTEREST	\$ 315.34	2ea W.PSB00FRR RED LED STRIP LIGHT	\$ 184.00
LOT INSURANCE	\$ 44.98	4-CORNER STROBES (6-way)	\$ 260.00
PDI CHARGE	\$ 80.00	7 W.295SLSA1 100W SIREN	\$ 285.00
SO.ETHFSS-SP WIG-WAG HEADLIGHTS	\$ 51.00	10 SMC.VCG-X/HCS CENTER CONSOLE	\$ 460.00
14 2ea MOUNTED ANTENNA (WHITE CABLE)	\$ 134.00	<b>Subtotal From Additional Sheet(s):</b>	
2ea W.SLPLLRB SLIMLIGHTER w/BRKT	\$ 430.00	<b>Subtotal B: \$ 11,323.32</b>	

**C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.**  
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
HUSKY FLOOR MATS	\$ 250.00		
BI.BR930W 3 - WAY POWER OUTLET	\$ 15.00	<b>Subtotal From Additional Sheet(s):</b>	
STEP BARS/NERF	\$ 375.00	<b>Subtotal C: \$ 640.00</b>	

**Check:** Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 2%

**D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)**

Description	Cost	Description	Cost
EQUIPMENT SERVICES	\$ 6,400.00	SMC.VMAPAN LAP-TOP MOUNT WITH DOCK	\$ 320.00
BLACK WEATHER GUARD TOOL BOX SIDE MOUNT	\$ 649.00	<b>Subtotal D: \$ 7,369.00</b>	

**E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D)** \$ 35,171.32

Quantity Ordered:	1	X Subtotal of A + B + C + D:	\$ 35,171.32	=	<b>Subtotal E: \$ 35,171.32</b>
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**F. H-GAC Fee Calculation (From Current Fee Tables)** **Subtotal F: \$ 600.00**

**G. Trade-Ins / Other Allowances / Special Discounts**

Description	Cost	Description	Cost
<b>Subtotal G: \$ -</b>			

**Estimated Delivery Date:** **H. Total Purchase Price (E+F+G): \$ 35,771.32**

