



COOPERATIVE PURCHASING PROGRAM
 Houston-Galveston Area Council of Governments
 3555 Timmons, Suite 120, Houston, TX 77027
 Phone: 800-926-0234 Fax: 713-993-4548
www.hgacbuy.org

INVITATION TO SUBMIT COMPETITIVE:	<input checked="" type="checkbox"/> BIDS	<input type="checkbox"/> PROPOSALS
INVITATION NO.: SM10-16	ISSUE DATE: April 28, 2016	
CATEGORY: Street Maintenance Equipment		

PURPOSE OF THIS INVITATION

The Cooperative Purchasing Program (**HGACBuy**) of the Houston-Galveston Area Council of Governments is soliciting offerings for the furnishing of products/services as described herein. These products/services may be purchased by any of more than 5,400 member local governments, districts, agencies in 44 states across the nation.

Responses must be submitted in an original and one (1) copy, and shall be subject to the terms, conditions, requirements and specifications detailed in the documents comprising this Invitation. Responses are scheduled to be opened publicly at **H-GAC** offices on the date indicated. For Bid Invitations, responses will be available for public review until 4:00 p.m. CT that day, and on subsequent days by appointment only. Any Responses submitted later than 1:00 p.m. on the due date will be returned unopened to the bidder/proposer.

PROCUREMENT SCHEDULE & DETAILS

DRAFT SPECIFICATION / INVITATION:	March 3, 2016
PRE-BID/PROPOSAL CONFERENCE:	April 6, 2016 @ 9:00 a.m. CT; Conference Room B - 2 nd floor
FINAL SPECIFICATION / INVITATION:	April 28, 2016
BID/PROPOSAL RESPONSES DUE:	May 26, 2016 @ 1:00PM CT; H-GAC Clock
PUBLIC RESPONSE OPENING:	May 26, 2016 @ 2:00PM CT; Conference Room B 2nd floor
RECOMMENDATIONS TO BOARD:	August 16, 2016
CONTRACT START DATE & TERM:	October 01, 2016 through September 30, 2018
The documents comprising this Invitation are available via web download at: https://www.hgacbuy.org/bids/	
For assistance regarding this Invitation, please contact: Name: Beverly Levy Phone: 832-681-2592 E-mail: Beverly.Levy@gmail.com	

CONTENTS OF THIS INVITATION

- SECTION A** - General Terms & Conditions
- SECTION B** - Product/Service Specific Requirements & Specifications (Final)
- SECTION C** - **HGACBuy** *FORMS* (Final)
- SECTION D** - Pro-Forma (Sample) Contract

This procurement conforms to government requirements for Competitive Procurement.

LABELING OF SEALED RESPONSE PACKAGE

IMPORTANT:

You must affix an identifying label to the outside of your Sealed Response Package to ensure proper identification and log-in at **HGACBuy** offices on receipt. **HGACBuy** is not responsible for any response that might be lost or misdirected due to improper or unclear labeling. Your label should look as follows and should be affixed conspicuously to the package.

H-GAC Cooperative Purchasing
Sealed Bid/Proposal No. **SM10-16**
DO NOT OPEN IN MAIL ROOM

Responses by E-mail or FAX will not be acceptable. Hard copies, as described herein, plus appropriate electronic media are required.

NOTICE REGARDING NATIONWIDE SALES POTENTIAL

HGACBuy is conducting this procurement with the objective of establishing one or more blanket type contracts for use by our Members. Because our Members are located not only in Texas, but throughout the country, we strongly urge you to participate in the process at the corporate level. If you do not sell direct, your dealer network may still service customers while you handle the administrative functions of providing quotes, accepting purchase orders, and collecting payments. If this is not feasible, we will work with you to subsequently assign your contract to your dealers as necessary to service customers.

Whatever approach you choose to take, there is considerable potential sales value because **HGACBuy** is being used not only in the State of Texas, but **NATIONWIDE**. This means that **HGACBuy** contractors will have a special advantage available to them in promoting sales to government agencies throughout the country... the ability to sell products without the need for the buyer to duplicate the competitive bidding process and expend the associated staff time and taxpayer dollars. We believe an **HGACBuy** contract would enhance your competitive position in the government marketplace, and are eager to work with you to promote the best interests of our participating local governments and qualifying non-profit organizations.

We look forward to your participation in our process. Please contact the **HGACBuy** staff member listed on the cover of this Invitation for additional information.



SECTION A
GENERAL TERMS & CONDITIONS
FOR BIDS AND PROPOSALS

INVITATION No. SM10-16
DESCRIPTION: Street Maintenance Equipment

TABLE OF CONTENTS

1. INTRODUCTION 2

2. DEFINITIONS, ABBREVIATIONS & ACRONYMS 2

3. NON-BINDING ORAL COMMENTS 4

4. STRUCTURE OF RESPONSE 4

5. BASIC REQUIREMENTS & CONDITIONS 4

6. OFFEROR'S AUTHORIZED SIGNATORY 5

7. SURETY FOR INSURANCE 5

8. CONFIDENTIAL / PROPRIETARY MATERIALS 6

9. REFERENCES 6

10. INSURANCE 6

11. OFFEROR CERTIFICATIONS 6

12. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION 7

13. NON-RESIDENT RECIPROCAL SALES ACT 7

14. TEXAS MOTOR VEHICLE COMMISSION CODE & LICENSING 8

15. INTENT AND SCOPE OF SPECIFICATIONS 8

16. REQUIREMENTS APPLICABLE TO PHYSICAL GOODS 8

17. PRODUCT CODES 8

18. SPECIFIC DESCRIPTIVE REFERENCES 9

19. MANUALS 9

20. STANDARD FEATURES & OPTIONS 9

21. WARRANTIES, SALES & SERVICE 10

22. H-GAC ORDER PROCESSING CHARGE 10

23. PRE-PAYMENTS AND DISCOUNTS 10

24. INSPECTION / TESTING 11

25. PRODUCT DELIVERY 11

26. OFFERED PRODUCT ITEM VARIANCES 11

27. REQUIREMENTS FOR SUBMISSION OF A RESPONSE 11

28. CLARIFICATION TO SPECIFICATIONS & REQUIREMENTS 13

29. INCONSISTENT INFORMATION 13

30. REJECTION OF RESPONSES 13

31. WITHDRAWAL OR MODIFICATION OF RESPONSES 14

32. RESPONSE EVALUATION 14

33. ORDER OF PRECEDENCE PRIOR TO CONTRACT AWARD 14

34. AWARD OF CONTRACT 14

35. PRO-FORMA CONTRACT 14

36. CONTRACT TERM 14

37. PERFORMANCE & PAYMENT BOND 15

38.	CHANGE ORDERS	15
39.	DUPLICATION OF TERMS OR STATEMENTS	15
40.	PUBLICITY	15
41.	TAXES.....	15
42.	DRUG FREE WORKPLACE	15
43.	PRODUCT NOTICES & MAILINGS.....	15
44.	HANDLING OF ORDERS & PAYMENTS.....	15
45.	PRICE CHANGES	16
46.	CONTRACT ITEM CHANGES	17
47.	FORCE MAJEURE	17
48.	PERFORMANCE UNDER CONTRACT	17
49.	IMPLEMENTATION OF INTERNET BASED E-COMMERCE.....	18
50.	CONTRACTOR ORIENTATION/TRAINING	18
51.	LEGAL & CONTRACTUAL REMEDIES	18
52.	NATIONWIDE SALES OPPORTUNITIES.....	19

1. INTRODUCTION

The Houston-Galveston Area Council (**H-GAC**) is a "Government-to-Government" procurement service for States, State Agencies, Local Governments, Districts, Authorities, and qualifying Not-for-Profit Corporations (**End Users**). End Users become **Members** of the **H-GAC** Cooperative Purchasing Program (**HGACBuy**) by executing an Interlocal Contract, which is free of cost and evergreen unless cancelled. **HGACBuy**, acting on behalf of **Members**, is soliciting competitive offerings for the furnishing of products and/or services, as described elsewhere, which MAY be purchased by **Members** during the contract term. **Members** using the Program issue purchase orders directly to **HGACBuy** contractors.

2. DEFINITIONS, ABBREVIATIONS & ACRONYMS

The following definitions, abbreviations and acronyms may be found in these specifications, and shall be interpreted herein as specified below.

Definitions and Abbreviations:

Acceptance. Acceptance takes place when the **End User** agrees with the **Contractor** that the terms and conditions of the contract have been met and verified. Acceptance is not the same as Receipt, and can only occur after intact shipping, inspection by **End User**, and any onsite testing that has been stipulated as part of the order

Aggregate/Single Occurrence. The term "*aggregate*" in insurance terms is the sum of all claims against a specific policy for a specific loss incident. The term "*single occurrence*" differentiates between multiple claims and single claims against a specific policy. The inherent value of a policy's aggregate value is less important to an **End User** than is the value of a single claim as stated under "*single occurrence*."

Approved. Acceptable to the "authority having jurisdiction."

ARO. "After Receipt of Order". Used in conjunction with a defined time period (usually days or weeks) to establish the delivery or lead time pursuant to any individual purchase transaction. In the case of orders for bodies which will be mounted on a customer furnished cab/chassis, the term ARO shall be construed to mean "After Receipt Of Cab/Chassis".

Authority Having Jurisdiction. The authority shall be either **H-GAC** or the relevant **End User** based on the requirements as stated in each specification item. Unless specifically stated, the authority shall be **H-GAC**.

Bidder. Any entity that submits a competitive bid to this Invitation. (See also "**Offeror**")

Change Order. Request by an **End User** for a change in the composition of an already submitted purchase order, for example to change quantity ordered, add or delete items, etc.

Contract. Specifically, a contract between **H-GAC** and a successful **Offeror** which is executed based on an award made pursuant this Invitation.

Contract Pricing Worksheet. The standard **H-GAC** form to be used by **Contractor** in preparing a quotation to an End User, upon which End User's purchase order will be based. **Contractor** may use another quotation form provided it contains required information, and only if approved by **H-GAC**.

Contractor. The contracted business entity responsible for fulfilling a contract executed pursuant to this Invitation.

Dealer/Distributor. A duly authorized and/or franchised business entity which sells and services a manufacturer's product in a specified marketing area.

Defect. A discontinuity in a part or a failure to function that interferes with the service or reliability for which the part was intended.

Electronic Media. As used herein, means computer based media such as 100mb Zip Disk, CDROM, e-mail, e-mail attachment, file downloaded from the web, etc.

End User. (See "**Participant**" and "**Member**")

Listed. Equipment or materials included in a list published by an organization, acceptable to the "Authority Having Jurisdiction" and concerned with product evaluation, that conducts periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or materials meet appropriate standards or has been tested and found suitable for use in a specified manner. NOTE: The means for identifying listed equipment may vary for each organization concerned with product evaluation, some of which do not recognize equipment as listed unless it is also labeled. The "authority having jurisdiction" should utilize the system employed by the listing organization to identify a listed product.

Manufacturer. The person or persons, company firm, corporation, partnership, or other organization responsible for taking raw materials or components and making a finished product.

May. A term indicating a permissive use or an acceptable alternative to a specified requirement.

Member. An authorized Participant in the Program. (See "**Participant**" and "**End User**")

Motor Vehicle. The meaning of this term shall be based on the legal definition ascribed to it by the laws and/or regulations of the state in which any specific sale made pursuant to a Contract takes place.

Must. A term indicating a mandatory requirement.

Offer or Offering. Any product or service offered in reply to this Invitation.

Offeror. Any entity that submits a competitive bid or proposal in response to this Invitation. Bidder or Proposer.

Participant. Generally, any qualifying governmental or non-profit entity which has executed an Interlocal Contract for cooperative purchasing services with **H-GAC**.

Product Liability Insurance. Failure of Components and/or assembled equipment resulting in personal injury, disability or death and/or property damage is covered under the product liability insurance provisions.

Product or Product Item. Any of the specific goods, materials, equipment or service(s) specified in this Invitation. This term encompasses the base line item itself, and any and all accessories, options, modifications, ancillary services, assembly, testing, etc. that may be included in the delivered Product.

Proposer. Any entity that submits a competitive proposal in response to this Invitation. (See also "**Offeror**")

Purchaser. The **End User** having responsibility for the specification, requisition, ordering and acceptance of the Product or Service. (See also "**End User**")

Purchasing Authority. The agency that has sole responsibility and authority for negotiating, placing and, if necessary, modifying any solicitation, purchase order, or other award issued by a governing body [**H-GAC**].

Quotation. See "Contract Pricing Worksheet".

Receipt. Receipt takes place when a Product or Service is delivered to an **End User** and a document is executed that establishes that the Product is now in the possession of the **End User** or that the Service has been completed. Receipt DOES NOT connote or imply Acceptance.

Response. All or part of any offering submitted in response to this Invitation.

Shall. A term indicating a mandatory requirement or action.

Should. A term indicating a recommended or advised response to a specified requirement.

Vendor. A manufacturer's representative or dealer authorized to make sales and supply parts and service.

Acronyms:

ANSI = **A**merican **N**ational **S**tandards **I**nstitute

ASTM = **A**merican **S**ociety for **T**esting and **M**aterials

ASME = **A**merican **S**ociety of **M**echanical **E**ngineers

CFR = U.S. **C**ode of **F**ederal **R**egulations

DOJ = U.S. **D**epartment **O**f **J**ustice

DOT = U.S. **D**epartment **O**f **T**ransportation

EPA = U.S. Environmental Protection Agency
FAA = Federal Aviation Administration
FMVSS = U.S. Federal Motor Vehicle Safety Standards
H-GAC = Houston-Galveston Area Council of Governments
IEEE = Institute of Electrical and Electronics Engineers
MVD = Motor Vehicle Division of Texas Department of Transportation
NFPA = National Fire Protection Association
NHTSA = National Highway Traffic Safety Admistration
NIOSH = National Institute For Occupational Safety And Health
NIST = National Institute of Standards and Technology
NTEA = National Truck Equipment Association
OSHA = U.S. Occupational Safety and Health Admistration
RRC = Railroad Commission of Texas
SAE = Society of Automotive Engineers
TBPC = Texas Building and Procurement Commission (formerly GSC)
TxDOT = Texas Department Of Transportation
UL = Underwriter's Laboratories Inc.
VTCS = Vernon's Texas Civil Statutes

3. NON-BINDING ORAL COMMENTS

No oral comment, utterance or response made by any employee, member, or agent of **H-GAC** or any Member of the Cooperative Purchasing Program shall be considered factual or binding with regard to this Invitation, or any contract awarded as a result of this Invitation. Valid and binding terms, conditions, provisions, changes or clarifications, or requests thereof, shall **ONLY** be communicated written form.

4. STRUCTURE OF RESPONSE

Depending on the Product or Service, market structures and sales practices can differ substantially. For example, dealers may sell into any market or may be restricted to certain territories, manufacturers may sell direct or may be limited by law to selling thru independent dealerships, etc. **H-GAC's** objective is to ensure that **End Users**, no matter where located, can buy contracted products/services and receive quality and timely service and support, while at the same time allowing for the most appropriate and effective response to this Invitation. Therefore, responses to this Invitation will be accepted in conformance with the following scenarios and requirements:

A. Single Respondent Acting Alone Or As "Lead" For A Group:

Offeror shall complete and sign a **Form A** and, if contracted, shall be solely responsible for all contractual requirements including administration, processing of purchase orders and handling of payments for transactions which may involve other dealers who actually deliver the products or services.

B. Multiple Respondents Acting Jointly:

A single Response shall be submitted, and each party to the Response shall complete and sign a separate **Form A** to be included in the single Response. If the Response is successful each party shall sign a separate contract with **H-GAC** and shall be responsible for compliance with all terms and conditions. Only those which have executed a written contract with **H-GAC** may process purchase orders and payments.

In any event, Offeror may be a party to one, and only one, response.

5. BASIC REQUIREMENTS & CONDITIONS

- a. The final requirements and specifications contained herein may be different, perhaps materially, from those in the "Invitation To Attend Pre-Bid / Pre-Proposal Conference", if any. It is **Offeror's** sole responsibility to thoroughly examine and review all documentation associated with this Invitation, including any Addendums, and to insure that any response submitted complies in every respect with all requirements.
- b. Any Addendum to this Invitation which may be required prior to the Response due date will be delivered to those prospective Offerors of record who have previously obtained a copy of this Invitation from **H-GAC**. Prospective Offerors shall be responsible for obtaining all documents relating to submission of a Response.
- c. **Offeror** shall thoroughly examine any drawings, specifications, schedules, instructions and any other documents, supplied as a part of this Invitation, and is solely responsible for understanding and compliance.

- d. **H-GAC** shall not be liable for **Offeror's** incomplete documentation, or for any costs associated with preparation and submission of any Response hereto. Additionally, all components of any Response become the property of **H-GAC**, and shall be considered to be in the public domain.
- e. **Offeror** shall make all investigations necessary to become thoroughly informed regarding any plan and/or infrastructure that may be required to support delivery of any Product or Service covered by this Invitation. No plea of ignorance by **Offeror** stemming from failure to investigate conditions that may now or hereafter exist, shall be accepted as a basis for varying **H-GAC's** requirements, or **Offeror's/Contractor's** obligations or entitlements.
- f. Requests for changes to the requirements or specifications herein must be in writing (e-mail, fax, letter) and must be received by **H-GAC** no later than fifteen (15) calendar days prior to the Response Due Date. **H-GAC** will review such requests, but may or may not make changes at its sole discretion. Changes, if any, will only be made by written Addendum sent to addressees of record. In any event, it is **Offeror's** sole responsibility to insure that any and all Addendums which may have been issued have been received and addressed.
- g. By submission of a response, **Offeror** expressly understands and agrees that all terms and conditions herein will be part of any subsequent contract that is executed pursuant to this Invitation.
- h. **Offeror** is advised that all **H-GAC** contracts are subject to the legal requirements established in any applicable Local, State or Federal statute.
- i. **Offeror/Contractor** must be in compliance with all licensing, permitting, registration and other applicable legal or regulatory requirements imposed by any governmental authority having jurisdiction. It is **Offeror/Contractor's** responsibility to insure that this requirement is met, and to supply to **H-GAC** upon request, copies of any license, permit or other documentation bearing on such compliance.
- j. Unless otherwise established elsewhere in this Invitation, NO minimum purchase quantities or spending levels are provided or guaranteed by **H-GAC** or any **End User**.
- k. This Invitation is not meant to restrict competition, but rather is intended to allow for a wide range of responses.
- l. Responses which are 'qualified' with conditional clauses or alterations of or exceptions to any of the terms and conditions in this Invitation may be deemed non-compliant at **H-GAC's** sole discretion.
- m. The term '**Offeror**', or derivative thereof, shall become synonymous with '**Contractor**' for any successful **Offeror** recommended for a contract pursuant to this Invitation.
- n. **H-GAC** reserves the right to:
 - Reject any and all offers received in response to this Invitation.
 - Reject any part of an offer received in response to this Invitation.
 - Determine the correct price and/or terminology in the event of any discrepancies in any response.
 - Accept a response from, and enter into agreement with, other than the lowest price **Offeror**.
 - Accept responses and award contracts to as many or as few **Offerors** as **H-GAC** may select.
 - Amend, waive, modify, or withdraw (in part or in whole) this Invitation, or any requirements herein.
 - Hold discussions with **Offerors**, although award may be made without discussion.
 - Request an **Offeror** to give a presentation of the Response at a time and place scheduled by **H-GAC**.
 - Exercise any of these rights at any time without liability to any **Offeror**.
- o. **H-GAC** reserves the right to determine that conditions exist which prevent the public opening of responses on the date and at the time advertised, and to reschedule the public opening for a future date and time. Responses received by **H-GAC** by the original deadline will be secured unopened until the rescheduled opening date and time, and those having timely submitted such responses will be notified.

6. OFFEROR'S AUTHORIZED SIGNATORY

The signatory shall be authorized to sign and contractually bind **Offeror**, and shall sign any and all Response documentation requiring a signature.

7. SURETY FOR INSURANCE

Contractor shall be responsible for using a surety company properly licensed by any and all states in which Contractor will do business with Participants. The surety company shall not expose itself to any loss on any one risk in an amount exceeding ten percent (10%) of its surplus to policy holders, provided any risk or portion of any risk shall have been reinsured, and such reinsurance shall be deducted in determining the limitation of risk applicable to **H-GAC's** insurance requirements.

8. CONFIDENTIAL / PROPRIETARY MATERIALS

All documentation submitted as part of **Offeror's** response to this Invitation will be considered to be in the public domain and may be made available to Members and others, after contract award, upon properly submitted request. If **Offeror** submits documents marked “confidential” or “proprietary”, the Response may be deemed non-compliant.

9. REFERENCES

- a. **Offeror** shall list the names of at least five government agencies within the continental United States which have purchased from **Offeror** products or services similar to those covered by this Invitation, within the last two years. **H-GAC** reserves the right to determine if such products or services are appropriately similar.
- b. **Offeror** may provide reference information in whatever format desired, but each should include the following specific information:
 - Agency name
 - Contact person name
 - Address
 - Phone & Fax numbers
 - Description of product(s) or service(s) and date sold
- c. Other information, including criticism however learned, may be used by **H-GAC** in evaluation of responses.

10. INSURANCE

- a. Unless otherwise stipulated in Section B, **Offeror/Contractor** must have the following insurance and coverage minimums:

General liability insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit.

Product liability insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Section B – Product Specific of this Invitation.

Property Damage or Destruction insurance is required for coverage of **End User** owned equipment while in **Contractor's** possession, custody or control. The minimum Single Occurrence limit is \$500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as part of Automobile coverage, or under a Garage Keepers policy. In any event, this coverage must be specifically and clearly listed on insurance certificate(s) submitted to **H-GAC**.
- b. Insurance coverage shall be in effect for the length of any contract made pursuant to this Invitation, and for any extensions thereof, plus the number of days/months required to *deliver* any outstanding order after the close of the contract period.
- c. Original Insurance Certificates must be furnished to **H-GAC** on request, showing **Offeror/Contractor** as the insured and showing coverage and limits for the insurances listed above.
- d. If any Product(s) or Service(s) will be provided by parties other than **Offeror/Contractor**, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by **H-GAC**, a separate insurance certificate must be submitted for each such party.
- e. **H-GAC** reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

11. OFFEROR CERTIFICATIONS

Offeror, by submission of a Response hereto, makes the following certifications under penalty of perjury and possible contract termination if any of these certifications are found to be false.

Non-Collusive Response

- a. The prices in the Response have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other **Offeror** or potential competitor.

- b. The prices which have been quoted in the Response (unless otherwise required by law), have not been knowingly disclosed by **Offeror** and will not be knowingly disclosed by **Offeror** prior to the public response opening, either directly or indirectly, to any other **Offeror** or competitor.
- c. No attempt has been made or will be made by **Offeror** to induce any other person, partnership or corporation to submit or not to submit a response for the purpose of restricting competition.

Non-Biased Specifications

This Invitation contains no requirements considered to be unduly biased in favor of **Offeror** or any other **Offerors** that may be competing for this procurement.

No Financial Interest or Other Conflict

- a. No **H-GAC** officer, employee, Board of Directors member or member of any **H-GAC** board or commission, nor family member of any such person, has a financial interest, direct or indirect, in **Offeror** or in any contract **Offeror** might enter into with **H-GAC**.
- b. No economic or employment opportunity, gift, loan, gratuity, special discount, trip, favor or service has been, or will be, offered or given to any officer, employee, Board of Directors member, or member of any **H-GAC** board or commission, nor to any family member of any such person.

Debarment and Suspension Status

- a. **Offeror** is not currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any government agency, nor is **Offeror** an agent of any person or entity that is currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transaction by any government agency.
- b. **Offeror** has not within a three year period preceding this Invitation been convicted of or had a civil suit judgement rendered against **Offeror** for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property.
- c. **Offeror** is not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated above.
- d. Offeror has not, within a three year period preceding this Invitation, had any government (federal, state, or local) transactions terminated for cause or default.

Insurance Coverages

Offeror has and will maintain insurance coverage in accordance with the requirements of this Invitation.

Licensing & Permits

Offeror(s) has (have) all licenses and/or permits, required by any and all governmental entities having jurisdiction, to legally sell the products/services offered.

12. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION

- a. To satisfy Texas' statutory requirements [Government Code, Chapter 2161, Subchapter D], **H-GAC** requires all **Offerors** to supply information in any bid/proposal response listing (1) the total number of subcontracts and (2) the total number of HUB contracts applicable to the Products or Services offered in the response. Local governments often require this information for their own reporting requirements prior to placing orders through the **H-GAC** Cooperative Purchasing Program.
- b. **Offeror** must complete **Form B** and include subcontracts with HUB's that provide any materials or services related to sales that may be made thru **H-GAC**'s Cooperative Purchasing Program.

13. NON-RESIDENT RECIPROCAL SALES ACT

As required by Texas Civil Statutes in the award of contracts, an offeror which is not a Texas resident business must determine if its state of residence prohibits award of government contracts to Texas resident offerors without penalty. If **Offeror's** resident state DOES penalize Texas offerors, **Offeror** must provide this information along with a copy of its applicable resident state's statute in the Response.

14. TEXAS MOTOR VEHICLE COMMISSION CODE & LICENSING

Sales of motor vehicles in the State of Texas are subject to the Texas Motor Vehicle Commission Code. If this Invitation includes any motor vehicle to be sold in the State of Texas, **Offeror** certifies by submission of a response hereto that all required Texas Motor Vehicle Commission licenses are in place and current, and that copies of all such licenses **have been submitted with the Response**. Further, it shall be **Contractor's** responsibility to keep current all required Texas Motor Vehicle Commission licensing during the term of the contract, and to furnish license copies at any time on request by **H-GAC**. If **Contractor** does not maintain current licensing, **H-GAC** reserves the right to immediately terminate the contract.

NOTE: In accordance with the Texas Motor Vehicle Commission Code, contracts for motor vehicles to be sold within the state of Texas may be made **ONLY** with properly licensed Texas Motor Vehicle Dealers. Therefore, to be considered for a contract covering Texas End Users, the Response must include a **Form A** from a licensed Texas Motor Vehicle Dealer

15. INTENT AND SCOPE OF SPECIFICATIONS

- a. The intent of the specifications herein is to provide **Offeror** with sufficient information concerning the Products/Services to be contracted such that **Offeror** can prepare and submit an acceptable Response.
- b. The specifications may be detailed or general in nature with regard to any particular Product/Service. Where not otherwise specified, details of construction, materials, or the way in which services will be provided, are left to the discretion of the **Offeror**, provided only that any offering shall conform, as a minimum, to best Industry standards and practices and to what is currently being sold in the marketplace.
- c. Responses shall be considered only from **Offerors** that have established good reputations in their markets, and who furnish satisfactory evidence of ability to supply the Products/Services specified herein.
- d. **Offeror** shall show proof of ability to provide to **End Users** prompt and competent service, including parts if applicable, for all Products/Services covered by this Invitation, by proper completion of a Service Organization Document as described elsewhere herein.

16. REQUIREMENTS APPLICABLE TO PHYSICAL GOODS

In the case of physical goods (e.g. equipment, material, supplies, as opposed to services), all Products offered must, unless otherwise stipulated in Section B:

- a. Be new, unused, and not refurbished.
- b. Not be a prototype insofar as the general design, operation and performance. This requirement is NOT meant to preclude **Offeror** from offering new models or configurations which incorporate improvements in a current design or add functionality, but which in such new model or configuration may be new to the marketplace.
- c. Include any and all accessories which may or may not be specifically mentioned herein, but which are normally furnished or which are necessary to make a delivered Product ready for its intended use. Such accessories shall be assembled, installed and adjusted such that the Product is ready for continuous operation at time of delivery.
- d. Have assemblies, sub-assemblies and component parts that are standard and interchangeable throughout the entire quantity of a particular Product as may be purchased simultaneously by any individual **End User**.
 - a. Be designed and constructed using current industry accepted engineering and safety practices, and materials.
 - b. Be available for inspection at any time prior to or after procurement.

17. PRODUCT CODES

Unless otherwise addressed in Section B of this Invitation, the following requirements shall apply:

- a. Each Product/Service offered shall be uniquely identified using an **H-GAC** Product Code, which shall be determined as described in Section B of this Invitation. **Offeror** shall offer **ONLY ONE** Product for any particular Product Code. For example, **Offeror** may wish to submit a bid for Product Code ABC and may have another offering that also meets the requirements for ABC. **Offeror** **MAY NOT** submit two offerings for ABC. The alternate offering that also meets the requirements for ABC must be offered as an option "upgrade/downgrade" to ABC on **Form E**.
- b. Pricing for optional upgrades or downgrades to base bid items should be quoted as an "adder" or "deduct" amount as appropriate, to be applied to the offered price of the base Product Item listed on **Form D**.
- c. Base bid items and their associated HGACBuy Product Codes are included in the Section B and/or on **Form D**.

- d. Selection of Product Codes for which to submit an offer is at **Offeror**'s sole discretion.

18. SPECIFIC DESCRIPTIVE REFERENCES

Except for Base Product Items listed on **Form D**, any reference to a specific catalog, data sheet, form, brochure, model name or number, etc. used herein to describe an item such as an option or accessory is only descriptive and is not to be considered restrictive unless otherwise noted. Such references are normally used only to indicate a type, general description, level of quality and/or required performance standards.

19. MANUALS

Unless otherwise specified or superceded herein, each Product delivered under an **H-GAC** contract, and if applicable any options thereto, shall be supplied with at least one (1) copy of a safety and operating manual. The cost of any such manuals must be included in the base price for any Product Item offered hereunder. If more detailed and technically orientated parts and maintenance manuals are available for a Product or option, at a cost, they shall be offered as options on the *FORM* designated herein for such options, or elsewhere in the Response as may be directed herein.

20. STANDARD FEATURES & OPTIONS

The following requirements are applicable primarily to physical goods.

Standard Features

- a. The stated minimum requirements for all Products listed herein include what **H-GAC** considers to be "standard" features. Even though such features might normally be offered as options rather than as standard, they are nonetheless considered to be standard in this Invitation, and must be included in the base price for any Product offered. Such features **SHOULD NOT** be offered as options except as deducts for their omission from the base Product.
- b. If it is unclear in the Response that an **H-GAC** standard feature is included in the base price, it will be assumed that such is the case. If awarded a contract **Offeror** will be expected to sell the Product with all **H-GAC** specified standard features included in the base price.
- c. Any feature or accessory normally offered by manufacturer as "standard" shall be considered a standard feature and shall be included in the base price of any offering, even though not specifically listed as a requirement in **H-GAC**'s specifications. Such features **SHOULD NOT** be offered as options except as deducts for their omission from the base Product.

Options - General

- a. Options are considered to be any features or accessories, other than **H-GAC**'s and Manufacturer's "standard" features or accessories.
- b. Options should be offered on the *FORMS* designated for quoting options. Each option should be listed and described on a separate line, and should include any Manufacturer's/Dealer's code number. If no Manufacturer's/Dealer's code number exists, **Offeror** should create one.
- c. Prices for all offered options shall be assumed to include any installation or mounting required to make it a fully functional component of the Product, unless otherwise stated in **Offeror's** response.

Required Options

- a. Product specifications in this Invitation may include **H-GAC** "Required Options". If so, **Offeror** must quote a price for ALL such options, and, if there is an **H-GAC** Option Code provided in this Invitation for such options, it MUST be used as part of the description.
- b. For any specific "Required Option", **Offeror** may quote an equivalent so long as its design and performance are as good as, or better than, the specified option item. Responses which do not include pricing for Required Options may be considered non-compliant.

Other Options

- a. "Suggested" or "Other" options may be listed for any particular Product in this Invitation, and **Offeror** is encouraged to quote pricing for such options. The extent of offered options in any response may be taken into consideration as part of the award criteria, at **H-GAC**'s sole discretion.

- b. **Offeror** is encouraged to include options for non-equipment items that may be applicable to a sale, such as: Extended Warranties, Maintenance Agreements, Buy-back or Trade-In Agreements, Out-of-state Delivery Charges, Quantity or Special Discounts, Extended Training Classes, etc.

Published & Unpublished Options

- a. H-GAC Cooperative Purchasing Program (Program) contracts are awarded through a public competitive bid or proposal (RFP) process. Further to that process, Program policy considers an 'option' listed and priced in a bid or RFP Response: (1) To be a "**Published Option**"; (2) To be part of any awarded contract; and (3) To be available for purchase by Program members separately and independently from associated base line items. However, since Published Options may have not been subjected to the same scrutiny as the associated base line items, it cannot be concluded they were directly competed. Therefore, pursuant to Local Government Code 252.021(a), purchase of a published option costing more than \$50,000 shall not be allowed. Furthermore, **H-GAC** reserves the right at its sole discretion to disallow purchase of any Published Option through the Program if deemed contrary to the intent of the law.
- b. Any option that has not been listed and priced in the Response is considered to be an "**Unpublished Option**". Unpublished Options may be sold, but only in connection with the sale of a base Product Item, and only insofar as the total cost of all Unpublished Options remains below twenty five percent (25%) of the total summed cost of the base Product(s) plus any Published Options.
- c. No Published or Unpublished Option may be sold which essentially converts a Product such that it competes with a Product Item awarded to another contractor.

21. WARRANTIES, SALES & SERVICE

Unless otherwise addressed in Section B, the following requirements shall apply:

- a. Offeror must be a properly franchised dealer authorized to sell and service, including warranty service, all products offered and sold in response to the bid invitation or under any **H-GAC** contract.
- b. **Offeror** shall provide detailed Parts and Labor Warranty information with the Response. If **Offeror** submits a warranty with the Response which does not meet the minimum requirements herein, **Offeror** agrees by submission of a Response that such warranty shall be considered to be amended to meet those minimums.
- c. Warranties shall be manufacturer's standard and shall be inclusive of any other warranty requirements which may be stipulated elsewhere herein.
- d. Any warranties offered by a dealer shall be in addition to the manufacturer's standard warranty, and shall not be a substitute for such. **Offeror's** base price for any Product shall be inclusive of the standard warranty.
- e. Complete warranty information will be supplied to **End User** with each Product sold.
- a. Warranties need not apply to normal maintenance service or adjustments, or to any product reasonably shown to have been repaired or altered in any way so as to affect its stability, or to any product which has been subject to misuse, negligence, or accident.
- f. **Offeror/Contractor** is encouraged to offer extended warranties as an option.
- g. Neither **H-GAC** nor **End User** assume any warranty or liability on **Contractor's** behalf unless made or assumed in writing, initiated by **Contractor**, and agreed to in writing by **H-GAC** or the **End User** respectively.
- h. **Contractor** shall be responsible for the execution and effectiveness of all product warranty, and shall be the sole source for solution to problems arising from warranty claims. **Contractor** agrees to respond directly to correct warranty claims and to ensure reconciliation of warranty claims that have been assigned to a third party.

22. H-GAC ORDER PROCESSING CHARGE

H-GAC will levy an Order Processing Charge on **Contractor** for each sale done thru the **H-GAC** contract, with the exception of orders for motor vehicles. Any bid pricing submitted will be considered to include the Charge. The amount of the applicable charge shall be per the most current **H-GAC** schedule. For motor vehicle orders, the Processing Charge shall be levied on and paid by the **End User**.

23. PRE-PAYMENTS AND DISCOUNTS

- a. Progress, pre-payment and special discounts of any kind may be offered and detailed in the Response. Such discounts shall be clearly explained, but shall not be a determining factor in awarding contracts except in the case of tie offerings.
- b. Quantity discounts applicable to similar Products sold to one or more **End User** Departments may be offered. Determination as to product similarity shall rest solely with **Contractor**.
- c. For specific purchases, any proposed quantity, pre-payment or special discounts shall be clearly shown on the Contract Pricing Worksheet.

24. INSPECTION / TESTING

All Products sold pursuant to this Invitation shall be subject to inspection/testing by or at the direction of **H-GAC** and/or the ordering **End User**, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Invitation, and unless otherwise agreed in advance, the cost of any inspection and/or testing, shall be borne by the **Contractor**.

25. PRODUCT DELIVERY

Unless otherwise addressed in Section B, the following requirements shall apply:

- a. Title to goods, and responsibility and liability for loss and/or damage in shipping pass to **End User** at the delivery destination after receipt and acceptance have taken place. Cost of shipping/delivery shall be paid by **End User** unless otherwise agreed to by **Contractor**. If **Contractor** will be paying for shipping/delivery, shipping terms must be "F.O.B. Destination, Freight Prepaid". If **End User** will be paying for shipping/delivery, shipping terms must be "F.O.B. Destination – Freight Collect".
- b. The details for the application and calculation of shipping and delivery charges must be stated in the Response on **Form E**. Any freight, shipping or delivery charged to **End User** will be prepaid and added to the invoice, and will be clearly shown on any Contract Pricing Worksheet or other quote presented to the **End User**.
- c. The estimated delivery time after receipt of order (ARO), inclusive of Saturdays, Sundays and holidays, for all Products offered must be stated in the Response. Actual delivery for any particular order must be confirmed with **End User** at time of order placement, and must be stated clearly on the Contract Pricing Worksheet.
- d. **Contractor** shall be responsible for delivery and Acceptance according to the requirements of the Contract and the Purchase Order.
- e. Contractor shall advise **End User** prior to making any shipment/delivery, and shall make such shipment/delivery in accordance with **End User's** requirements, providing only that such arrangements do not contravene any requirement of the **H-GAC** contract unless agreed to by **Contractor**.
- f. The execution of all required tests, certifications and/or licensing, and costs thereof, shall be the responsibility of **Contractor**. Upon request by **End User** or **H-GAC**, **Contractor** shall provide any documentation or certification related to such tests, certifications or licensing.

26. OFFERED PRODUCT ITEM VARIANCES

Any variance in the specifications or performance of Products offered pursuant to this Invitation shall be acceptable to **H-GAC** only insofar as it MEETS or EXCEEDS the specifications and requirements of this Invitation.

27. REQUIREMENTS FOR SUBMISSION OF A RESPONSE

Unless otherwise addressed in Section B, the following requirements shall apply:

- a. Responses shall be submitted in two complete printed sets including an Original and one (1) Copy in separate "hard side" three-ring binders. The outer spine of each binder shall be labeled showing this Invitation No., **Offeror** Name, and either "Original" or "Copy", as applicable. The Original printed response will be considered to be the binding Response in case of any conflicts between printed copies and electronic copies. Except for required forms, **H-GAC** Invitation documents should not be included in the Response.
- b. The Original and the Copy shall be submitted complete, except that the Electronic Media should be submitted only with the Copy.
- c. All required **H-GAC FORMS** and documents shall be properly completed, without exception or **Offeror's** Response may be deemed non-compliant. **Offeror** may not modify the format of any **H-GAC FORM** in any way. **Offeror** may photocopy or print blank **FORMS** as needed. Information submitted on the printed copies of the **FORMS** may not be handwritten except for signatures and initials. It is **Offeror's** responsibility to insure that printed **FORMS** are clear and legible. Handwritten and illegible entries may be rejected. **Offeror's** printed, stamped or typed name shall appear on every **FORM** submitted in the Response.
- d. The entire response submission shall also be submitted on electronic media, including all required **H-GAC FORMS**. **Offeror** is strongly advised to make and work with copies of the original electronic **FORMS**. The originals can then be used to make additional electronic or printed copies of the blank **FORMS**. Signatures are not required on the electronic **FORMS**.
- e. The Response shall include ample written evidence, in the form of technical specifications, cut/tear sheets, brochures, pictures, drawings, etc., to demonstrate that all specifications herein have been met and/or exceeded.

- f. The Response shall include, in any format desired, an overview of the **Service Organization** which will support Products sold under any **H-GAC** contract. The overview must include facility locations, phone numbers and Service Manager names, as well as the following:
- The procedure to be used by an **End User** requiring repairs.
 - Typical turn-around time on repairs.
 - Service Department days and hours of operation.
 - Number of qualified / factory trained service personnel normally on hand.
 - Description of the parts inventory on hand.
 - Training services, facilities and personnel available.
- g. Responses shall be enclosed in a sealed package(s) addressed to the Houston-Galveston Area Council, Cooperative Purchasing. The following information shall be stated on the exterior of the package(s):
- Name and address of **Offeror**.
 - Date and hour of public response opening.
 - Bid/Proposal Invitation number.
 - The statement: "**SEALED BID/PROPOSAL, DO NOT OPEN IN MAIL ROOM**".
- H-GAC** shall not be responsible for any Response not properly labeled.
- h. Submission of a COMPLETE Response by telegraphic or electronic transmission is not acceptable. However, Responses may be modified by telegraphic or electronic notice if such notice is received prior to the deadline for submission.
- i. Samples, when required, shall be submitted within the time specified and at no expense to **H-GAC**. If not destroyed or consumed during testing, samples will be returned upon request at **Offeror's** expense.
- j. **Offeror** shall provide firm contract pricing for all Products and Options being offered.
- k. If applicable, responses shall include copies of all current licensing which may be required by the Texas Motor Vehicle Division for execution of sales pursuant to any contract with **H-GAC**.
- l. Due to the complexity of responses and to aid in evaluation, the Response should contain **ALL** required information in tabbed sections as detailed below. Omission of any required FORM or information will be sufficient grounds for **H-GAC** to consider your response to be non-compliant.
- m. **First Section:**
- **Form(s) A – Offeror Identification & Signatory:** Identifies the offering party(ies), and should be completed by each party to the Response. If awarded, a contract will be executed with each.
 - **Form B – Historically Underutilized Business Enterprises:** Used to collect information about disadvantaged and minority suppliers and subcontractors, and to commit **Offeror** to working with Participants toward their program goals.
 - **Form C – Response Checklist:** Certification, and also an aid, to insure that all required information has been included in your Response.
 - References, formatted as described elsewhere herein.
 - Service Organization Document, formatted as described elsewhere herein.
- Second Section:**
- **Form D – Offered Items Pricing:** For Bids, contains the list of the Product Items covered by this Invitation. Select the items offered and fill in the price for each. (For RFPs, follow the instructions in Section B as this **Form** may or may not be used.)
 - **Form E – Published Options:** Used to list and price all offered options. List, each on a separate line, all upgrades, downgrades, optional equipment, features, accessories and services which you desire to sell thru the **H-GAC** contract, if awarded. Published catalogs/price sheets may be listed, along with the discount structure that will apply. (For RFPs, follow the instructions in Section B as this **Form** may or may not be used.)
 - **Form W-9 – Request for Taxpayer Identification Number and Certification:** Should be completed by each party to the response.
- Third Section:**
- Technical Specifications, Product Brochures, Tear Sheets, Cut Sheets, Strippers, etc. which clearly list and show all the standard features and capabilities of each Product Item offered on **Form D**.

- Warranty Documentation, as described elsewhere herein, for all items offered.

Fourth Section:

- Copies of any applicable Texas MVD Licenses.
 - Electronic Media, containing the complete response including all required *FORMS*, stored in a pouch or an envelope such that it will not fall out of the binder. (Required in 'Copy' only, not in 'Original'.)
 - **Form CIQ – Conflict Of Interest Questionnaire:** Chapter 176 of the Texas Local Government Code requires vendors and consultants contracting or seeking to contract with **H-GAC** to file a Conflict of Interest Questionnaire (CIQ) if they have an employment or other business relationship with an **H-GAC** officer or an officer's close family member. The required questionnaire is located at the Texas Ethics Commission website: http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm. It is Bidder's responsibility to download the form and furnish a completed copy with the Response, if it is applicable.
- n. By submittal of Response, **Offeror** certifies to the best of its knowledge that all information is true and correct.

28. CLARIFICATION TO SPECIFICATIONS & REQUIREMENTS

- a. If **Offeror** is in doubt as to the meaning of any item in this Invitation, a written request for clarification may be submitted to **H-GAC** up to fifteen (15) calendar days prior to the deadline for response submission. **H-GAC** shall not be responsible for late delivery. Requests may be transmitted by FAX or e-mail to the assigned Specification Specialist, and should clearly reference this Invitation number and the specific page and paragraph in question. If there are multiple questions, they should be stated separately and numbered.
- b. Any interpretation of Invitation documents, if made, will be by written Addendum duly issued. A copy of such Addendum will be mailed or delivered to each person officially on record as having been sent a copy of this Invitation. **H-GAC** will not be responsible for any other explanation or interpretation of the Invitation documents made or given prior to the award of the contract.
- c. Any objections to the Invitation documents must be filed in writing with **H-GAC** on or before fifteen (15) calendar days prior to the deadline for submission of responses.
- d. Prospective offerors are advised that, after a draft specification has been issued, the Pre-Bid/Proposal Conference is the primary forum through which comments and suggestions may be offered for consideration by **H-GAC** prior to issuance of the final invitation and specifications.
- e. All best efforts have been made to insure that the product/service descriptions and associated specification information in Sections B & C are correct, and adequate time has been given to prospective Offerors to point out mistakes. However, if an error remains and is caught by Offeror before the scheduled bid/proposal opening, Offeror shall make note of the required correction in the Response, and shall also notify **H-GAC** prior to the opening of responses.

29. INCONSISTENT INFORMATION

H-GAC review of responses supplied on **H-GAC FORMS** is a significant part of the evaluation process. **Offeror** shall state clearly all information required on the *FORMS*. **Offeror's** information supplied on the *FORMS* shall take precedence in the event any standard "boilerplate" type language included in **Offeror's** response is inconsistent with the information supplied by **Offeror** on the **H-GAC FORMS**. In all cases, information on **H-GAC's** printed *FORMS* supplied as part of **Offeror's** response shall take precedence over information supplied on electronic media.

30. REJECTION OF RESPONSES

- a. **H-GAC** may reject a response if:
 - **Offeror** misstates or conceals any material fact in the Response, or if,
 - **Offeror** does not strictly conform to law or the requirements of this Invitation.
- b. **H-GAC** may reject any and all responses, and may reject any part of a response.
- c. **H-GAC, at its sole discretion**, may also waive any formalities or irregularities in any response, or ask for corrected information except for pricing.

31. WITHDRAWAL OR MODIFICATION OF RESPONSES

Once received by **H-GAC**, responses may be modified or withdrawn prior to the submission deadline only if the request to do so is in writing submitted by **Offeror's** authorized representative. Responses and requests for modification received after the submission deadline will not be accepted. Requests for response withdrawal received after the submission deadline will be accepted if the request to do so is in writing submitted by **Offeror's** authorized representative.

32. RESPONSE EVALUATION

For Bid Responses:

- a. Section B will state whether the contract will be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for **H-GAC** and its participants.
- b. If the contract will be awarded based on best value, Section B will state any relevant criteria which **H-GAC** will consider.
- c. For each offered Product Item, **H-GAC** may use the offered price, prices for Required Options, and the prices of selected common Published Options to determine the lowest responsible offer.
- d. Failure of **Offeror** to submit pricing for frequently purchased options and any **H-GAC** required options may cause response to be considered non-compliant at **H-GAC's** sole discretion.

For Proposal Responses:

- e. **H-GAC** will evaluate proposals as detailed in Section B.
- f. By submission of a Response Offeror indicates acceptance of the evaluation technique, and recognizes and accepts that **H-GAC** may at its sole discretion make subjective judgments during the evaluation process.

33. ORDER OF PRECEDENCE PRIOR TO CONTRACT AWARD

In the event of conflict between this document and any references or documents cited herein, this document shall take precedence prior to contract award.

34. AWARD OF CONTRACT

- a. **H-GAC** reserves the right to accept or reject any Product Item or option offered. Additionally, all options included in Offeror's response and accepted by **H-GAC** are understood to be included in any contract.
- b. **H-GAC** shall award contract(s) for line items or groups of line items, at its sole discretion.
- c. With authority granted by the **H-GAC** Board of Directors, a written contract shall be presented to the successful **Offeror(s)** and shall be subject to acceptance by the successful **Offeror(s)** within thirty (45) calendar days after presentation by **H-GAC**. If a contract is not executed within thirty (45) calendar days, **H-GAC** may rescind the contract offer and award a contract to the next **Offeror** in order of rank as determined by **H-GAC**.
- d. Delivery time and prompt payment discounts, including time allowed for payment, may be considered in tie-breaking of offers which are judged by **H-GAC** to be equal in all other criteria.
- e. The contract shall include the following documents in the stated order of precedence:
 - 1st The contract document signed by **H-GAC** and **Offeror**.
 - 2nd This Invitation and all specifications referenced herein.
 - 3rd **Offeror's** response to this Invitation.

35. PRO-FORMA CONTRACT

This Invitation includes a Pro-Forma (sample) Contract which successful offerors will be expected to sign. The actual final contract will be the same or nearly the same as the Pro-Forma. NOTE: Successful Offerors MAY NOT process any purchase orders until the contract documents have been executed and returned to **H-GAC**.

36. CONTRACT TERM

The contract shall be in effect throughout the period stated elsewhere in the contract documents, and thereafter until such time as any outstanding orders against the contract have been fulfilled. The contract may be extended if deemed by **H-GAC** to be in the best interests of the Program, and subject to mutual agreement of the parties.

37. PERFORMANCE & PAYMENT BOND

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB), and offered pricing should reflect this cost saving. However, **Contractor** must be prepared to offer a PPB to cover any specific order if so requested by **End User**. **Contractor** shall quote a price to **End User** for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of **End User's** purchase order.

38. CHANGE ORDERS

End Users shall have the right to make additions by addenda for the purpose of clarification or inclusion of additional specifications, qualifications, conditions, etc. Any such addenda shall be made in writing and agreed upon by **Contractor** and the **End User** agency prior to issuance of any Change Order. A copy of any such Change Order shall be furnished by **Contractor** to **H-GAC**.

39. DUPLICATION OF TERMS OR STATEMENTS

Where statements or terms are duplicated or are extremely similar, **H-GAC** and the **End User** reserve the right to use the statement or term most favorable to **H-GAC** and/or the **End User**.

40. PUBLICITY

H-GAC encourages contractors to "market" the Program, and can provide some information and artwork to be used in published promotional materials. However, any publicity or published material released by **Contractor** referencing the contract, whether in the form of a press release, brochure, photographic coverage, or verbal announcement, shall be issued only with prior review and approval by **H-GAC**.

41. TAXES

HGAC and **End User** participants are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. **Offeror** shall not include any such taxes in the Response. Further, it shall be the responsibility of **Contractor** to determine the applicability of any taxes to a particular order and act accordingly. Exemption certificates will be provided upon request.

42. DRUG FREE WORKPLACE

Contractor shall provide notice to its employees and sub-contractors, as required under the Drug-Free Workplace Act of 1988. A copy of **Contractor's** Drug-Free Workplace policy shall, on request, be furnished to any **End User**.

43. PRODUCT NOTICES & MAILINGS

H-GAC is NOT the owner of Products sold pursuant to this Invitation, but acts only in the capacity of purchasing agent. In that regard, **Contractor** accepts sole responsibility for insuring that notices and mailings, such as Safety Alerts, Safety Recall Notices and Customer Surveys, are sent directly to the **End User** of record.

44. HANDLING OF ORDERS & PAYMENTS

In general, orders and payments will be handled as described below. More specific instructions and information regarding handling of purchase orders and the Order Processing Charge may be provided after contract award. Established procedures may be changed at any time by **H-GAC** as may be dictated by efficient business practice. The particulars of any sale, e.g. specific products, pricing, delivery, warranty, etc., will be in strict accordance with the terms and conditions of this Invitation and the specific contract awarded to **Contractor**. Beyond that:

- a. For any particular procurement to be made under the provisions of an **H-GAC** contract, **End User** and **Contractor** will discuss requirements and agree as to what will be provided.
- b. **Contractor** will prepare a Contract Pricing Worksheet and provide it to **End User**. The Worksheet will list everything being purchased including the base bid item(s), all published and unpublished options and the delivery date. All pricing shall be per the current contract.
- c. **End User** will send a purchase document to **Contractor**, which **Contractor** will send **H-GAC** together with the Contract Pricing Worksheet. **NOTE: Contractor** agrees not to offer, agree to or accept from **End User** any terms or conditions that conflict with or contravene those in **Contractor's** **H-GAC** contract, except for pricing discounts.

- d. **H-GAC** will prepare an "Order Confirmation" and send it to **End User** and to **Contractor**. The Order Confirmation verifies that **Contractor** has a valid **H-GAC** contract and that the order is in compliance with the requirements of the **H-GAC** Cooperative Purchasing Program. **Contractor** will not ship any goods before receipt of both **End User's** purchase document and **H-GAC's** Order Confirmation.
- e. On notification that **Contractor** has received an order, **H-GAC** will invoice **Contractor** for the applicable Order Processing Charge. **NOTE:** The Order Processing Charge is charged to **Contractor**, **EXCEPT in the case of motor vehicles**. For all sales of motor vehicles the Order Processing Charge is levied on the **End User**, collected by **Contractor**, and remitted to **H-GAC** by Contractor.
- f. **Contractor** will deliver products/services ordered, and will invoice **End User** for products/services accepted by **End User**. (See other Sub-Section herein dealing with Product Delivery.) **Contractor** will not invoice before shipment has been made.
- g. **End User** will pay **Contractor** for those products and/or services ordered which have been received and accepted. Under no circumstances shall any check be made payable to a representative or agent. Should a representative or agent submit an invoice to **End User** for any cost related to a purchase order issued to **Contractor** for products/services covered by an **H-GAC** contract, such invoice shall be forwarded to **Contractor** and **Contractor** will take action to correct the error.
- h. Upon delivery of any product/service by **Contractor** and acceptance by **End User**, **Contractor** shall remit to **H-GAC** the full amount of the applicable Order Processing Charge in accordance with the payment terms established in the **H-GAC** contract. Note, the Order Processing Charge is due whether or not **Contractor** has ever received an invoice from **H-GAC**. Sales executed based on the particulars of **Contractor's** **H-GAC** contract, without payment of the Order Processing Charge, may constitute fraud.

45. PRICE CHANGES

- a. Any permanent increase or decrease in offered pricing for a base contract item or published option is considered to be a price change. Temporary increases in pricing by whatever name (e.g. 'surcharge', 'adjustment', 'equalization charge', 'compliance charge', 'recovery charge', etc.), are also considered to be price changes.
- b. Except in the case of contracted published catalogs and price sheets, prices for Base Bid Items and Published Options are expected to be held firm for a minimum of 90 days from the date an awarded Offeror signs the **H-GAC** contract. Thereafter, changes will be considered if accompanied by justifying documentation satisfactory to **H-GAC**. For published catalogs and price sheets which are on an **H-GAC** contract, requests to amend the contract to reflect any new published catalog or price sheet may be submitted whenever the manufacturer publishes the new document. Any such request must include the new catalog or price sheet.
- c. If **Contractor** routinely offers discounted contract pricing, **H-GAC** may request **Contractor** to accept amended contract pricing equivalent to the routinely discounted pricing.
- d. No price change will be allowed unless it has been reviewed and approved by **H-GAC** in writing. **Contractor** must have received **H-GAC's** written approval of any change prior to charging the new price or using it in any quotation prepared for an End User.
- e. Price change requests must be submitted to **H-GAC** in writing and must be received by **H-GAC** at least thirty (30) calendar days prior to the requested effective date of the change, and must state the time period for which the requested pricing will remain firm.
- f. Price change requests shall include **H-GAC Forms D** and **E**, or whatever documentation was used to submit pricing in the original Response hereto, showing all affected items with current contract price, requested price, and percentage change shown clearly for each. This documentation should be submitted in MSExcel format to facilitate analysis and updating of the website.
- g. Price change requests **MUST** be supported with substantive documentation (e.g. manufacturer's price increase notices, copies of invoices from suppliers, etc.) showing that **Contractor's actual costs** have increased. The Producer Price Index (PPI) may be used as partial justification, subject to approval by **H-GAC**, but no price increase based solely on an increase in the PPI will be allowed.
- h. All Products shall, at time of sale, be equipped as may be required under any then current applicable local, state, and federal government requirements. If, during the course of any contract, changes are made to such government requirements which cause a manufacturer's costs of production to increase, **Contractor** may increase Product pricing to the extent of **Contractor's** actual cost increase. The increase must be substantiated with support documentation acceptable to **H-GAC** prior to taking effect. Modifications to a Product required to comply with such requirements which become effective after the date of any sale shall be the responsibility of the **End-User**.

- i. In cases involving contract extensions exceeding sixty-one (61) days beyond the stated expiration date of the contract, **Contractor** may request a price change based on the same conditions as stated above. However the thirty (30) day prior notice is waived and **H-GAC** will consider the request immediately on receipt.
- j. **H-GAC** reserves the right to accept or reject any price change request. Acceptance, if granted, will be in writing and the approved changes will become part of the contract.

46. CONTRACT ITEM CHANGES

- a. If a manufacturer discontinues a contracted item, that item will automatically be considered to be deleted from the contract with no penalty to Contractor. However, **H-GAC** may at its sole discretion elect to make a contract award to the next low offeror for the item, or take any other action deemed by **H-GAC** to be in the best interests of **End Users**, at its sole discretion.
- b. If a manufacturer makes any change in a contracted item which does not affect the contract price, Contractor shall advise **H-GAC** of the details. If the 'new' item is equal to or better than the originally contracted item, the 'new' item shall be approved as a replacement. Otherwise **H-GAC** may allow or reject the change, or take any other action deemed by **H-GAC** to be in the best interests of **End Users**, at its sole discretion. If the change is rejected there will be no penalty to Contractor.
- c. If a manufacturer makes any kind of change in a contracted item which affects the contract price, Contractor shall advise **H-GAC** of the details. **H-GAC** may allow or reject the change at its sole discretion. If the change is rejected there will be no penalty to Contractor. However, **H-GAC** may elect to make a contract award to the next low offeror for the item, or take any other action deemed by **H-GAC** to be in the best interests of **End Users**, at its sole discretion.
- d. In the case of specifically identified catalogs or price sheets which have been contracted as base bid items or as published options, routine published changes to products and pricing shall be automatically incorporated into the contract. However, **Contractor** must still provide thirty (30) calendar days written notice and an explanation of the changes to products and pricing. **H-GAC** will respond with written approval.

47. FORCE MAJEURE

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

48. PERFORMANCE UNDER CONTRACT

H-GAC is committed to insuring that **Contractor** provides effective and efficient service to all Participants in the Cooperative Purchasing Program, and expects that certain Performance Conditions must be met. Failure to meet these conditions may result in contract termination. In that regard, **Contractor shall:**

- a. Appoint a dedicated representative to be the contact person and focal point for all matters relating to End User quotations and orders. The representative shall have: A toll free phone number with voice mail; A fax number; A working e-mail address; and A postal address.
- b. Insure that the representative timely monitors all communication modes listed above, and promptly responds to communications from **End Users** and **H-GAC** in any of these modes. Phone calls will be promptly returned, in any event not later than the next business day. Acceptable failure will be due only to Force Majeure.
- c. Maintain sufficient qualified staff to promptly process all communications from **H-GAC** or **End Users**, and to efficiently, effectively and accurately service all requirements of the contract.
- d. As may be requested by **H-GAC**, replace any staff members who are not providing the service and expertise deemed necessary by **H-GAC** for acceptable support of **End Users**.
- e. Properly prepare and provide to **End User** a Contract Pricing Worksheet, or a quotation in other format as approved by **H-GAC**, for each and every order that is to be executed.
- f. Furnish, on request of **H-GAC**, reasonable data, forms and graphic material to be used in brochures or other print media, or on **H-GAC**'s website.
- g. Allow access to **H-GAC** authorized personnel for inspection of operating facilities, and auditing of purchase orders during the contract period, and for a period extending thru the completion of any outstanding orders. Site inspection may be arranged not less than ten (10) calendar days prior, shall include the names of all participants, and shall be at no expense to **Contractor**.

h. **Reporting Requirements:**

- **Contractor** agrees to submit written quarterly reports to **H-GAC** detailing all transactions during the previous three month period. Such reports shall include, but are not limited to the following:
- **End User** name
- Product/Service purchased, including Product Code if applicable
- End User Purchase Order Number
- Purchase Order Date
- Product/Service dollar amount
- **HGACBuy** Order Processing Charge amount
- Reports must be provided to **H-GAC** in MSExcel or other acceptable electronic format, and are due by the 30th day of the month following the applicable quarter being reported.

i. Should **Contractor** default in providing Products or Services as required by this Invitation and the contract, recourse may be exercised thru cancellation of the contract and other legal remedies as may be appropriate.

49. IMPLEMENTATION OF INTERNET BASED E-COMMERCE

H-GAC Cooperative Purchasing has adopted E-Commerce as part of its business model and maintains an internet website at www.HGACBuy.org. At any point in time, various information and process functions may be implemented and made operational thru the website, including but not limited to items such as:

Information Items

- Contract information
- Procurement schedules
- Response requirements & specifications
- Product and option item catalog listings
- **End User & Contractor** information

Functions

- **End User** product inquiries
- Product configuration and price quotes
- Purchase Orders and Confirmations
- Shipping/Delivery notices
- Invoice generation
- Payment remittances, etc.

All **H-GAC Contractors**, as a condition of contract, will be required to work with **H-GAC** and it's E-Commerce provider(s) to maximize use of E-Commerce within the context of **H-GAC** Cooperative Purchasing business. **Offeror** is encouraged to refer to **H-GAC's** Cooperative Purchasing web site where additional information can be found. If you have any questions, please contact **H-GAC** for assistance.

50. CONTRACTOR ORIENTATION/TRAINING

H-GAC believes that **Contractor's** familiarity with the operational policies and requirements of the Cooperative Purchasing Program is a key factor in achieving **End User** satisfaction. In that regard, the Contact Person listed on **Form A**, or an alternate, shall be required to participate in an **H-GAC** vendor orientation/training as soon as possible after contract award. In addition, any other of Contractor's staff who will be involved in any way with the HGACBuy Program should participate in orientation. The orientation may be presented as a teleconference or webinar, or may be held in **H-GAC's** offices as may be determined by **H-GAC** and Contractor to be the most efficient and effective form of delivery.

51. LEGAL & CONTRACTUAL REMEDIES

RESOLUTION OF PROTESTED SOLICITATIONS AND AWARDS

Procedure

Any actual or prospective **Offeror** or **Contractor** who is aggrieved in connection with a purchase transaction may file a grievance. The grievance may be filed at any phase of the procurement. In order for an above mentioned party to enter the grievance process, a written complaint must be sent to the Office Services Manger of **H-GAC** by certified mail which identifies the following:

1. Name, mailing address and business phone number of the complainant.
2. Appropriate identification of the procurement being questioned.
3. A precise statement of reasons for the protest.
4. Supporting exhibits evidence or documents to substantiate any claims.

The grievance must be based on an alleged violation of **H-GAC's** Procurement Procedures, a violation of State or Federal law (if applicable), or a violation of applicable grant or contract agreements to which **H-GAC** is a

party. Failure to receive a procurement award from **H-GAC** in and of itself does not constitute valid grievance. Upon receipt of grievance, the Office Services Manager will initiate the informal resolution process.

Expedited Resolution

The Procurement Officer or Departmental Manager responsible for the solicitation shall contact the complainant and all interested parties and attempt to resolve the allegations informally within ten (10) working days from date of complaint. If the allegations are successfully resolved by mutual agreement, documentation will be forwarded to the Office Service Manager of the resolution with specifics on each point addressed in the original complaint.

If the Procurement Officer or Departmental Manager is not successful in resolving the allegations, the complaint along with the comments will be forwarded to the Office Service Manager immediately. The Office Service Manager will review all documentation. All interested parties will be given written notice of the date, time, and place of the hearing and an opportunity to present evidence. A written decision will be issued within five (5) working days after the hearing along with notice of appeal rights.

Appeals

The complainant may appeal the Office Service Manager's decision by submitting a written appeal, within five (5) working days, to the Executive Director of **H-GAC**. The Executive Director, upon receipt of a written notice of appeal, shall contact the complainant and schedule a hearing within ten (10) working days. The Executive Director of **H-GAC** has the option of appointing a Hearing Officer to preside over the hearing. If appointed, the Hearing Officer shall conduct a hearing and forward a summary and recommended resolution to the Executive Director.

The decision reached by the Executive Director or his designee shall be final and conclusive. This decision will be forwarded to the complainant in writing within thirty (30) working days.

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.

RESOLUTION OF CONTRACT DISPUTES

Upon breach or default, **H-GAC** shall give the **Contractor** written notice of default. If the default is not remedied, within a reasonable specified time from date of notification, to the satisfaction and approval of **H-GAC**, default will be declared.

Upon breach of contract or default, **H-GAC** may exercise any and all of its rights afforded by law, including but not limited to those referenced in the General Contract Provisions.

SOLICITATIONS OR AWARDS IN VIOLATION OF THE LAW

Contracts awarded in violation of the competitive process or otherwise in violation of the law are voidable by **H-GAC**.

52. NATIONWIDE SALES OPPORTUNITIES

HGACBuy provides purchasing services to local governments qualifying non-profits throughout the nation, and desires to make established contracts available to them wherever and whenever practicable. Therefore, once a contract is awarded, **Contractor** is expected to expand the scope of its marketing effort to include sales to **End Users** in all areas of the United States, and/or to assign any **H-GAC** contract to another contractor(s) as deemed appropriate by **H-GAC** in the interest of its End Users.

- **Contractor** may sell through **HGACBuy** anywhere subject to compliance with applicable laws and regulations. If the market structure in which **Contractor** operates requires a contract assignment for any particular sale, **H-GAC** will expect **Contractor** to assign the contract to a Manufacturer or to another Dealer(s). Such assignment must be approved by **H-GAC**.
- **Contractor**'s differential costs (e.g. transportation & delivery charges) and allowances (e.g. manufacturer's sales incentives) related to any sale may be charged to buyer.

End of Section A
GENERAL TERMS & CONDITIONS

SECTION B
PRODUCT SPECIFIC REQUIREMENTS
For
STREET MAINTENANCE EQUIPMENT

Sub-Section	Page
1.0 PURPOSE AND SCOPE.....	1
2.0 DEFINITIONS	1
3.0 COMMERCIAL CHASSIS DESIGNS.....	1
4.0 TRAINING	2
5.0 GENERAL EQUIPMENT REQUIREMENTS.....	2
6.0 BID RESPONSE REQUIREMENTS	2
7.0 PRODUCT CODES AND PRICING	2
8.0 EVALUATION OF RESPONSES AND AWARDS.....	3

1.0 PURPOSE AND SCOPE

In order to address the potential street maintenance equipment needs of our Cooperative Purchasing Program’s Members, H-GAC has established this specification. This specification and the awards to follow are designed to allow for multiple manufacture and model awards, which will afford H-GAC Members the opportunity to shop equipment by price, brand preference, or other proprietary, technical aspects.

This is a “catalog” style bid format, whereby complete manufacturers’ catalogs or formal manufacturer-dealer retail price books will be priced in their entirety, with bidders pricing the entire document at a percentage off list price. Catalogs may be priced by manufacturers or distributors. Bidders who are awarded contracts pursuant to this Invitation will be able to sell any machines and/or components contained in the catalogs bid to HGAC Members during the contract period, which will cover a **twenty-four (24)** month period. As described earlier in this specification (Section A, Terms & Conditions), price changes may be allowed during the course of the contract, per the guidelines described.

2.0 DEFINITIONS

- 2.1 **Catalog:** Either a printed manufacturer’s catalog, with models and accessories listed and indexed by model numbers/codes, with or without retail/list pricing; or, an internal manufacturer-to-distributor/dealer retail price list, listing models and accessories and their respective manufacture item number/codes, with retail/list pricing.
- 2.2. **Members:** Local government agencies (cities, counties, schools, police and fire departments, et cetera) participating in Houston-Galveston Area Council’s Cooperative Purchasing program, purchasing equipment and services through HGAC from contracted manufacturers or distributors

3.0 COMMERCIAL CHASSIS DESIGNS

For all commercial truck-mounted machinery designs bidder shall price the base unit on **Form D**. Pricing should be for the body only, on a customer supplied chassis including all installation costs, ready to operate without additional fitting or preparation, with an installation cost-deduct included on Form E. Bidders who contract with **HGACBuy** will accommodate those truck dealers who participate on **HGACBuy**’s Car & Light Truck and Medium & Heavy Truck contracts, who may supply the customer furnished cab/chasses under separate purchase order.

Truck mounted designs that can only be sold as a completed cab-chassis and body combination (e.g. manufacturer furnished cab-chassis) must include the following:

- A “Form A” from each participating bidder/dealer of each brand of commercial chassis being offered

- A copy of each participating bidder/dealer's TXMVD dealer license specifying the make(s) of chassis for which they are a dealer
- Attached cab-chassis list with description and pricing

4.0 TRAINING

With the purchase of each new catalog item, vendor shall provide H-GAC Members with adequate training, which, at a minimum, shall include at least one (1) detailed owner's manual, DVD/CD, or video, providing instruction for the operation and maintenance facets of the machine or component (**the price of these items shall be included in the base unit price**). Additionally, HGAC Members shall have an ongoing opportunity for communication with an engineer, sales engineer, or qualified technician beginning at the time of delivery and extending for the useful life of each item.

5.0 GENERAL EQUIPMENT REQUIREMENTS

- 5.1 Necessary safety decals shall be furnished and affixed at the operator's station and at any hazardous area, and shall include necessary warnings and precautions.
- 5.2 All equipment shall carry the manufacturer's standard warranty and shall be guaranteed for a minimum of one year against defects in materials, workmanship and performance. The warranty shall begin on the date of acceptance by the end user, during which, the vendor shall replace or repair defective machines or components, at no expense to H-GAC Members.
- 5.3 The equipment provided shall meet or exceed all federal and Texas state safety, health, and noise regulations in effect and applicable to equipment furnished at the time of manufacturer.
- 5.4 Bidder shall include specifications, brochures, warranty information, and any other relevant product information with their bid package.
- 5.5 All parts necessary for the unit to be complete and ready for operation or which are normally furnished as standard equipment shall be furnished by the vendor. All parts shall conform in strength, quality and workmanship to the accepted standards of the industry.
- 5.6 The unit shall be completely assembled, adjusted, and all equipment including standard and supplemental equipment shall be installed and the unit made ready for continuous operation.

6.0 BID RESPONSE REQUIREMENTS

- 6.1 Dealers submitting responses must be authorized, under written franchise agreement with the manufacturer, to sell and service, including warranty work, any product offered hereunder.
- 6.2 Offerors MUST submit the **Service Organization** document required by Section A, Sub-section 28.g. Further, the Service Organization document must include a detailed description of the geographic area in which Offeror is authorized to sell and service any equipment bid.
- 6.3 H-GAC will assess contractors an Order Processing Charge of 1.5% of the order amount on all orders placed by Members under any contract executed pursuant to this procurement. Offerors are responsible for taking this into account in determining bid pricing.

7.0 PRODUCT CODES AND PRICING

- 7.1 Catalogs priced under this Invitation shall be done so on H-GAC's preformatted **Form D**, upon which bidder shall supply a percentage off retail/list price. Ideally, this will be a single percentage covering the entire catalog(s) bid, across all of the catalog's models and accessories. However, H-GAC recognizes that a given catalog may have varying margins associated with the different categories within a single catalog. Given this, H-GAC will allow different percentage discounts within a given manufacturers' catalog (e.g. segmented by category or model). Such multi-tiered discounts for a given catalog should be bid on **Form D**. If a category or model is not preformatted on **Form D**, bidder shall insert the description "Refer to Attached" on Form D and include a separate sheet with the percentage discounts for that catalog detailing the name of catalog and the category-

percentage breakdowns. **Form E is included in the bid package to allow pricing of those options that are not included in a particular catalog (e.g. distributor's services, extended warranties, and options sold by distributor that are not found on a particular catalog listed herein).** The discount percentage price from List/Retail will determine the final price for each catalog. Only one catalog/item per line on **Form D** will be awarded. In the event of a tie, H-GAC will use other criteria submitted in the bidder's offering to determine a single awardee. Catalogs bid at 0 (zero) percent discount from list/retail price will be deemed non-compliant.

- 7.2 Bidder shall include with bid package, for every catalog bid under this Invitation, a copy of the applicable catalog and retail price lists. Failure to do this may result in bid being deemed non-compliant.
- 7.3 Bid pricing shall be exclusive of freight charges, which will be addressed at the time of each individual sale, as a P/O line item, specific to the individual end user. Freight Charges should be quoted on Form E.
- 7.4 Bids shall include a comprehensive list of options/accessories, either included in the bidder's manufacturer catalog pricing or priced separately on H-GAC's Form E.
- 7.5 In the absence of a document's specific effective date, the catalog/retail price book bid shall be the one in effect at the time of bid submittal.
- 7.6 For the purpose of this Invitation, all catalogs covered by this specification shall be classified and described using a three or four character alpha-numeric "Product Code". The first two numeric characters designate the manufacturer. The third (and fourth as applicable) Alpha character designate(s) the specific catalog.
- 7.7 **Form D1 is for sample pricing from the manufacturer's catalog. Price should be in dollar figures and should reflect the catalog's discounted price listed on Form D. If pricing differs from catalog pricing, H-GAC may choose the lower pricing. The base price should be a working functional unit with at least the minimum equipment or options necessary to perform unless otherwise noted in the description.**

8.0 EVALUATION OF RESPONSES AND AWARDS

8.1

Consistent with Texas bid award statutes, for each specific Form D line item, H-GAC will recommend a single award to the lowest responsible Offeror. Once approved by our Board of Directors, Offerors will be notified of H-GAC management's final award recommendations by email, followed by a final formal signature request from our Contracts group.

***** End of Section B *****



SECTION C - H-GAC FORMS

(Rev 12/02/09)

For Use In Responding To Competitive Bid And Proposal Invitations

Invitation No.: SM10-16

Title: Street Maintenance Equipment

This Section contains the following **H-GAC FORMS**.

FORM	DESCRIPTION
Form A:	Offeror Identification and Authorized Signatory
Form B:	Historically Underutilized Business Enterprises
Form C:	Response Checklist
Form D:	Offered Items Pricing
Form E:	Published Options

These *FORMS* are hereby made available in electronic format. They should be copied to Offeror's computer for completion and/or printout as required. The *FORMS* **may not** be changed or altered in any way, except as may be specified on the *FORM*.

ALL completed *FORMS* must also be submitted electronically on electronic media (DVD, CDROM, flash/thumb drive), excepting of course for signatures. The printed "Original" of the response will be considered as the official copy in case of any discrepancy between the electronic version and the printed Original.

FORM A - OFFEROR IDENTIFICATION & AUTHORIZED SIGNATORY
(DO NOT handwritten this Form. Information must be typed in.)

Invitation No.: SM10-16

Invitation Title: Street Maintenance Equipment

Offeror Company:

(Legal name of business which will appear on contract, if awarded)

Offeror Status: Manufacturer Dealer/Distributor Other

Response Type(1): Single Offeror Acting Alone Or As Lead Multiple Offerors Acting Jointly

Contract Signatory(2):

Title:

Mailing Address(3):

Street/PO Box

City

State & Zip

Physical Address:

Street

City

State & Zip

Phone:

Fax:

Email Address:

Federal Tax ID No.:

Web Page URL:

- (1) If Joint Offering, all parties must submit a signed Form A. A contract will be offered to each.
- (2) Person who will sign final contract documents if an award is made.
- (3) Address to which final contract documents would be sent for signature.

Member Contact Information

Contact Person(4):

Title:

Mailing Address:

Street/PO Box

City

State & Zip

Physical Address:

Street

City

State & Zip

Toll Free Phone:

Fax:

Email Address:

- (4) Person who End Users will contact for product information and to get pricing quotes.

The Signatory below, on behalf of Offeror:

- Acknowledges having thoroughly reviewed the Invitation;
- Attests to having the authority to sign this response and commit Offeror to honor all requirements;
- Makes, under penalty of perjury, all required Offeror Certifications as detailed in General Terms;
- Certifies that all information provided in this Response is true and correct.

Signature:

Title:

Printed Name:

Date:

Title: Street Maintenance Equipment**Offeror:** _____

Most, if not all, of the Members of HGACBuy are subject to various requirements relative to purchasing goods and services from Historically Underutilized Business Enterprises (HUBs)(See Note 1). These requirements are promulgated by federal and state governmental authorities, and include measureable criteria such as 'percentage of total dollars spent directed to HUBs', 'number of HUB contractors used', 'HUB subcontractors employed by primary contractors', etc. These requirements are generally formalized in goal oriented programs.

HGACBuy is comitted to promoting full and equal business opportunities for HUB contractors, and to assisting Cooperative Purchasing Program (COOP) Members in meeting mandated HUB goals. In that regard, Contractor shall make a good faith effort to use the services of Certified/Listed (See Note 2) HUBs whenever possible.

As part of a good faith effort, Contractor agrees to work with and assist HGACBuy Members in meeting HUB targets and goals, as may be required by any rules, processes or programs they might have in place. Such assistance may include such things as compliance with reporting requirements, provision of documentation, consideration of 'Certified/Listed' subcontractors, provision of documented evidence that an active participatory role for a HUB entity was considered in a procurement transaction, etc.

Note 1: There are many designations other than "HUB" used across the country within various jurisdictions. Examples include terms such as Disadvantaged Business Enterprise (DBE), Minority Owned Business Enterprise (MBE), Woman Owned Business Enterprise (WBE), Small Disadvantaged Business (SDB), Small, Woman or Minority-owned Business (SWAM), etc. Regardless of the formal designation, the overall objective of the relavant programs is basically the same, i.e. to insure that disadvantaged and underutilized members of the business community receive a fair share of public spending. The term HUB as used herein shall be understood to encompass all such programs/business enterprises, no matter what terminology is used by the Member.

Note 2: The terms "Certified" and "Listed" as used in conjunction with HUB programs relate to the process of HUB qualification review. Jurisdictions usually require that companies claiming HUB status be reviewed and confirmed as meeting certain minimum requirements to claim that status, and that the review and confirmation process be carried out by certain designated entities. They are then "Certified" or "Listed" by having their name included on an official listing published by the Certifying or Listing Authority.

Accepted and Agreed By:

Title:

Date:

HUB Status Of Offeror Offeror is a HUB, as detailed below. Offeror is not a HUB.

Designation(s):

 HUB DBE MBE WBE Other

Certifying/Listing Authority(s):

Subcontracts

On a separate sheet, list any subcontractors that would be employed in providing products or services related to this procurement. Include subcontractor name, designation (HUB, DBE, etc.) and certifying/listing authority.

 Subcontractor List attached. No Subcontractors will be used.

FORM C - RESPONSE CHECKLIST

Procurement No.: SM10-16

Title: Street Maintenance Equipment

Offeror: _____

This *FORM* is provided to help insure that all required Response elements have been completed and included, or certified as being available upon request. **Responses that do not comply with all requirements may be considered non-compliant.** Offeror's signatory must review each item below, and certify by initialing in the space to the right.

This Response Includes:

Init.

- | | | |
|----|--|--|
| 1 | An "Original" hard copy of the <u>COMPLETE</u> submission, including all required <i>FORMS</i> , plus one copy, each in a separate hard-sided 3-ring binder. | |
| 2 | A copy of the <u>COMPLETE</u> submission, including all required <i>FORMS</i> , in electronic format (CD, DVD, flash drive). | |
| 3 | An originally signed Form A from all entities who are party to this submission and who should be offered a contract if this submission is successful. | |
| 4 | The required list of References . | |
| 5 | Details of " Service Organization ", including locations, hours, personnel and parts/service availability. (Applies to hard goods only.) | |
| 6 | Complete Warranty Documentation for all Products offered. | |
| 7 | The manufacturer's latest Specification Documents detailing standard features, operating characteristics, etc., for all products offered. | |
| 8 | Form CIQ , if required by law, completed and signed. (The Form, and instructions for its use, can be found at: http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm) If Form CIQ does not apply, put "N/A" in the box to the right. | |
| 9 | If the Non-Resident Reciprocal Bid Act applies, a copy of your state statute and a determination of the status of Texas bidders/proposers in your home state. If not applicable, indicate "N/A" | |
| 10 | If offer includes motor vehicles to be sold in Texas, copies of all current licenses as required by the Texas Motor Vehicle Commission. | |

Bidder:			
Invitation #:	SM10-16		
<p>This Form is intended for pricing only those catalogs described in the SM10-16 specification. Bidder shall complete this form, print and include copies of it (in its entirety) in the response. Reminder: bidder shall include an electronic media copy of any catalog(s)/price sheet(s) bid, in the Response package.</p>			
Manufacturer	H-GAC Product Code	Catalog/Retail Price Sheet Description	Percentage Discount off Retail/List Price
Anderson Machinery	40A	LAY-MOR Walk behind Sweeper Pricing Catalog/Price Sheet	
Anderson Machinery	40B	LAY-MOR Wheel Towable Street and Road Sweeper Pricing Catalog/Price Sheet	
Anderson Machinery	40C	LAY-MOR Wheel Street & Road Broom Pricing Catalog/Price Sheet	
Arrow-Master	39A	Mobil Drop Hammer Pricing Catalog/Price Sheet	
Asphalt Zipper	01A	Asphalt Zipper Asphalt Milling/Planing/Reclaiming Machine Pricing Catalog/Price Sheet	
Basic	03A	Basic Pneumatic Rollers Pricing Catalog/Price Sheet	
BearCat	50A	Distributor Pricing Catalog/Price Sheet	
Bear Cat	50B	Chip Spreaders Pricing Catalog/Price Sheet	
Bear Cat	50C	Kracker Crack sealer Pricing Catalog/Price Sheet	
Bergkamp	04A	Bergkamp Pothole Patchers Pricing Catalog/Price Sheet	
Bergkamp	04B	Spray Injection Truck Mounted Patcher Pricing Catalog/Price Sheet	
Bomag	05A	Bomag Single Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Bomag	05B	Bomag Tandem Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Bomag	05C	Bomag Combination Rollers Pricing Catalog/Price Sheet	
Bomag	05D	Bomag Pneumatic Rollers Pricing Catalog/Price Sheet	
Bomag	05E	Bomag Light Equipment, Tampers and Plates Pricing Catalog/Price Sheet	
Bomag	05F	Bomag Light Equipment, Walk Behind and Trench Rollers Pricing Catalog/Price Sheet	
Bomag	05G	Bomag Light Equipment, Small Ride on Rollers Pricing Catalog/Price Sheet	
Bomag	05H	Bomag Milling/Planing Pricing Catalog/Price Sheet	
Bomag	05I	Bomag Asphalt Recycling & Soil Stabilization Pricing Catalog/Price Sheet	
Bomag	05J	Bomag Landfill Compactors Pricing Catalog/Price Sheet	
Bomag	05K	Bomag High Speed/Embankment Compactors Pricing Catalog/Price Sheet	
Bomag	05L	Bomag Paving Pricing Catalog/Price Sheet	
Broce	06A	Broce Street/Road Brooms Pricing Catalog/Price Sheet	
Carlson	44A	Carlson Asphalt Paver-Screeds Pricing Catalog/Price Sheets	
Case Construction	07A	Case Construction Single Smooth Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Case Construction	07B	Case Construction Tandem Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Case Construction	07C	Case Pneumatic Roller Pricing Catalog/Price Sheet	
Caterpillar	08A	Caterpillar Single Smooth Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Caterpillar	08B	Caterpillar Tandem Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Caterpillar	08C	Caterpillar Combination Rollers Catalog Pricing/Price Sheet	
Caterpillar	08D	Caterpillar Pneumatic Rollers Catalog Pricing/Price Sheet	
Caterpillar	08E	Caterpillar Asphalt Milling/Planing/Reclaiming Machines Catalog Pricing/Price Sheet	
Caterpillar	08F	Caterpillar Asphalt Paver-Screeds Catalog Pricing/Price Sheet	
Cedar Rapids (Terex)	09A	Cedar Rapids (Terex)Paver-Screeds Pricing Catalog/Price Sheet	
Cedar Rapids (Terex)	09B	Cedar Rapids (Terex) Windrow Pickup Machines Pricing Catalog/Price Sheet	
Cedar Rapids (Terex)	09C	Cedar Rapids (Terex) Mat Finish Asphalt Pickup Machines Pricing Catalog/Price Sheet	
Cemen Tech	10A	Cemen Tech Mobile Concrete Dispensers Pricing Catalog/Price Sheet	
Cimline	11A	Cimline Melter-Applicator/Crack Sealers Pricing Catalog/Price Sheet	
Cimline	11B	Cimline, Random Crack Saw Pricing Catalog/Price Sheet	
Cimline	11C	Miscellaneous: Cimline, Router Pricing Catalog/Price Sheet	
Crafco	13A	Crafco Pothole Patchers Pricing Catalog/Price Sheet	
Crafco	13B	Crafco Melter-Applicators/Crack Sealers Pricing Catalog/Price Sheet	
Crafco	13D	Crafco Pavement Cutters Pricing Catalog/Price Sheet	

Crafco	13E	Crafco Crack-Vac Asphalt Crack Cleaners Pricing Catalog/Price Sheet	
Crafco	13F	Crafco BAX Skid-Mounted Marker Placers Pricing Catalog/Price Sheet	
Crafco	13G	Crafco SuperSeal Coater Pricing Catalog/Price Sheet	
Doppstadt	14A	Doppstadt Slow Speed High Torque Shredders Pricing Catalog/Price Sheet	
Doppstadt	14B	Doppstadt High Speed Grinders Pricing Catalog/Price Sheet	
Doppstadt	14C	Doppstadt Trommel/Star Screens Pricing Catalog/Price Sheet	
Doppstadt	14D	Doppstadt Picking/Sorting Stations Pricing Catalog/Price Sheet	
Duraco	15A	Duraco Pothole Patcher Durapatchers Pricing Catalog/Price Sheet	
Duraco	15B	Duraco Emulsion Storage Tanks Pricing Catalog/Price Sheet	
Dynapac	16A	Dynapac Single Smooth Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Dynapac	16B	Dynapac Tandem Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Dynapac	16C	Dynapac Combination Rollers Pricing Catalog/Price Sheet	
Dynapac	16D	Dynapac Static Roller Tri Drums Pricing Catalog/Price Sheet	
Dynapac	16E	Dynapac Pneumatic Rollers Pricing Catalog/Price Sheet	
Dynapac	16F	Dynapac Portable Compactor Rammer/Tappers Pricing Catalog/Price Sheet	
Dynapac	16G	Dynapac Portable Compactor Forward Plates Pricing Catalog/Price Sheet	
Dynapac	16H	Dynapac Portable Compactor Forward-Reverse Plates Pricing Catalog/Price Sheet	
Dynapac	16I	Dynapac Portable Compactor, Vibratory Drum & Trench Rollers Pricing Catalog/Price Sheet	
Dynapac	16J	Dynapac Paver-Screeds Catalog Pricing/Price Sheet	
Dynapac	16K	Dynapac Mobile Asphalt Feeders Pricing Catalog/Price Sheet	
Ecoverse Industries	41A	Doppstadt Slow Speed High Torque Shredders Pricing Catalog/Price Sheet	
Ecoverse Industries	41B	Doppstadt High Speed Grinders Pricing Catalog/Price Sheet	
Ecoverse Industries	41C	Doppstadt Trommel/Star Screens Pricing Catalog/Price Sheet	
Ecoverse Industries	41D	Doppstadt Picking/Sorting Stations Pricing Catalog/Price Sheet	
Ecoverse Industries	41E	Doppstadt Mixers Pricing Catalog/Price Sheet	
Ecoverse Industries	41F	Doppstadt Screw Extruders Pricing Catalog/Price Sheet	
Ecoverse Industries	41G	Backers Star Screens Pricing Catalog/Price Sheet	
Ecoverse Industries	41H	Backhus Compost Turners Pricing Catalog/Price Sheet	
Ecoverse Industries	41I	Cesaro De-packaging Tiger Pricing Catalog/Price Sheet	
Ecoverse Industries	41J	Waste Systems Max Extract Pricing Catalog/Price Sheet	
Ecoverse Industries	41K	Waste Systems Flex Extract Pricing Catalog/Price Sheet	
Ecoverse Industries	41L	Waste Systems EcoSort300 Pricing Catalog/Price Sheet	
Etnyre	17A	Etnyre Asphalt Distributors Pricing Catalog/Price Sheet	
Etnyre	17B	Etnyre Chip Spreaders Pricing Catalog/Price Sheet	
Etnyre	17C	Emulsion Storage Tanks: Etnyre Pricing Catalog/Price Sheet	
EZ-Liner	18A	EZ-Liner Striping Machines Pricing Catalog/Price Sheet	
Fort Miller FAB3 Corp.	38A	Vacuum Leaf Collection Equipment Pricing Catalog/Price Sheet	
Gomaco	19A	Gomaco Concrete Paver Pricing Catalog/Price Sheet	
Gomaco	19B	Gomaco Concrete Finishers Pricing Catalog/Price Sheet	
Hamm	20A	Hamm Single Smooth Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Hamm	20B	Hamm Tandem Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Hamm	20C	Hamm Combination Rollers Pricing Catalog/Price Sheet	
Hamm	20D	Hamm Static Three Wheeled Rollers Pricing Catalog/Price Sheet	
Hamm	20E	Hamm Pneumatic Rollers Pricing Catalog/Price Sheet	
H D Industries	45A	Pothole Patchers Pricing Catalog/Price Sheet	
LB Performance	51A	Motorgraders/ Catalog Price sheet	
LB Performance	51B	Brooms/ Catalog Price Sheet	
LB Performance	51C	Road Widners/ Catalog Price sheets	
LB Performance	51D	Self Propelled Road Wideners Pricing Catalog/Price Sheet	
LB Performance	51E	Paver-Screeds Pricing Catalog/Price Sheet	
LB Performance	51F	Street/Road Brooms Pricing Catalog/Price Sheet	
LB Performance	51G	Pneumatic Rollers Pricing Catalog/Price Sheet	
LeeBoy	22A	LeeBoy Tandem Drum Vibratory Rollers Catalog/Price Sheet	
LeeBoy	22B	LeeBoy Pneumatic Rollers Catalog/Price Sheet	
LeeBoy	22C	LeeBoy Asphalt Distributors Catalog/Price Sheet	
LeeBoy	22D	LeeBoy Paver-Screeds Catalog/Price Sheet	
LeeBoy	22E	LeeBoy Force Feed Loaders Catalog/Price Sheet	
LeeBoy	22F	LeeBoy Asphalt Patcher Catalog/Price Sheet	
LeeBoy	22G	LeeBoy Motorgraders Catalog/Price sheet	
Lincoln Paving	23A	Lincoln Paving Windrow Asphalt Pickup Machines Catalog/Price Sheet	
Maddock	53A	Maddock Asphalt Milling/Planing/Reclaiming Machines Catalog/Price Sheet	

Maddock	53B	Maddock Rotary Ditching Machines Catalog/Price Sheet	
Mauldin	24A	Mauldin Tandem Drum Vibratory Rollers Catalog/Price Sheet	
Mauldin	24B	Mauldin Static Roller Tandem Drums Catalog/Price Sheet	
Mauldin	24C	Mauldin Pneumatic Rollers Catalog/Price Sheet	
Mauldin	24D	Mauldin Asphalt Distributors Catalog/Price Sheet	
Mauldin	24E	Mauldin Paver-Screeds Catalog/Price Sheet	
Mauldin	24F	Mauldin Maintainers Catalog/Price Sheet	
M-B Companies	25A	M-B Companies Striping Machines Pricing Catalog/Price Sheet	
M-B Companies	25B	M-B Companies Wheeled Loader Attachment Brooms Pricing Catalog/Price Sheet	
M-B Companies	25C	M-B Companies Tow-Behind Road Brooms Pricing Catalog/Price Sheet	
M-B Companies	25D	M-B Companies Walk-Behind Self-Propelled Brooms Pricing Catalog/Price Sheet	
M-B Companies	25E	M-B Companies Vulcan Kettle Thermoplastic Melting Kettles Pricing Catalog/Price Sheet	
M-B Companies	25F	M-B Companies Mercury Trailer System Thermoplastic Melting Systems Pricing Catalog/Price Sheet	
Midland	26A	Midland Machinery Self Propelled Road Wideners Pricing Catalog/Price Sheet	
Morbark	27A	Morbark Predator Shredders Catalog/Price Sheet	
Oshkosh	46A	H Series Snowblower Catalog/Price Sheet	
Oshkosh	46B	H Series Snowbroom Catalog/Price Sheet	
Oshkosh	46C	HT Series Chassis Catalog/Price Sheet	
Oshkosh	46D	P Series Catalog/Price Sheet	
PB Loader Corporation	52A	Asphalt Patcher Pricing Catalog/Price Sheet	
PB Loader Corporation	52B	Emulsion System Pricing Catalog/Price Sheet	
PB Loader Corporation	52C	Loader Pricing Catalog/Price Sheet	
PennzRoads	43A	Water Absorbing Products Catalog/Price Sheet	
PennzRoads	43B	Organic Petroleum Catalog/Price Sheet	
PennzRoads	43C	Organic Nonpetroleum Catalog/Price Sheet	
PennzRoads	43D	Electrochemical Catalog/Price Sheet	
PennzRoads	43E	Synthetic Polymer Catalog/Price Sheet	
PennzRoads	43F	Clay Additives Catalog/Price Sheet	
Pitbull	48A	2300 Plant Pricing Catalog/Price Sheet	
Pitbull	48B	Pitbull Conveyor Pricing Catalog/Price Sheet	
Pitbull	48C	Pitbull Equipment Pricing Catalog/Price Sheet	
RoadHog, Inc.	37A	RoadHog, Inc. Attachments Asphalt Milling/Planing/Reclaiming Machines Catalog/Price	
Roadtec	28A	Roadtec Asphalt Milling/Planing/Reclaiming Machines Pricing Catalog/Price Sheet	
Roadtec	28B	Roadtec Paver-Screeds Pricing Catalog/Price Sheet	
Roadtec	28C	Roadtec Material Transfer Vehicle Catalog/Price Sheet	
Roadtec	28D	Roadtec Street /Road Brooms Catalog/Price Sheet	
Rosco	29A	Rosco Pneumatic Rollers Pricing Catalog/Price Sheet	
Rosco	29B	Rosco Pothole Patchers Pricing Catalog/Price Sheet	
Rosco	29C	Rosco Asphalt Distributors Pricing Catalog/Price Sheet	
Rosco	29D	Rosco Chip Spreaders Pricing Catalog/Price Sheet	
Rosco	29E	Rosco Street/Road Brooms Pricing Catalog/Price Sheet	
Rosco	30F	Water Truck Body Pricing Catalog/Price Sheet	
Sakai	30A	Sakai Single Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Sakai	30B	Sakai Tandem Drum Vibratory Rollers Pricing Catalog/Price Sheet	
Sakai	30C	Sakai Combination Rollers Pricing Catalog/Price Sheet	
Sakai	30D	Sakai Vibratory Pneumatic Rollers Pricing Catalog/Price Sheet	
Sakai	30E	Sakai Static Rollers Tandem Drum three wheel Pricing Catalog/Price Sheet	
Sakai	30F	Sakai Light Equipment, Rammers, Tampers and Plates Pricing Catalog/Price Sheet	
Sakai	30G	Sakai Light Equipment, Walk Behind and Trench Rollers Pricing Catalog/Price Sheet	
Schwarze	31A	Schwarze Pothole Patchers Pricing Catalog/Price Sheet	
Spaulding	47A	Melter-Applicator/crack sealer Pricing Catalog/Price Sheet	
Spaulding	47B	Pathole Patcher body Pricing Catalog/Price Sheet	
Spaulding	47C	Asphalt Heater/Recycler Pricing Catalog/Price Sheet	
Spaulding	47D	Asphalt tack distributor Pricing Catalog/Price Sheet	
Spaulding	47E	Single drum vibratory roller Pricing Catalog/Price Sheet	
Superior Broom	32A	Superior Broom Street/Road Brooms Catalog/Price Sheet	
Swenson	33A	Swenson Snow Removal Equipment Catalog/Price Sheet	
Vogele	48A	Vogele Asphalt Pavers-Screeds Catalog/Price Sheet	
Volvo Construction	34A	Volvo Construction Single Smooth Drum Vibratory Rollers Catalog/Price Sheet	

Volvo Construction	34B	Volvo Construction Tandem Drum Vibratory Rollers Catalog/Price Shee	
Volvo Construction	34D	Volvo Construction Pneumatic Rollers Catalog/Price Sheet	
Volvo Construction	34F	Volvo Construction Pavers Catalog/Price Sheet	
Wacker	35A	Wacker Tandem Drum Vibratory Rollers Catalog/Price Sheet	
Wacker	35B	Wacker Portable Compactor Rammer/Tappers Catalog/Price Sheet	
Wacker	35C	Wacker Portable Compactor Electric Rammer/Tappers Catalog/Price Sheet	
Wacker	35D	Wacker Portable Compactor Forward Plates Catalog/Price Sheet	
Wacker	35E	Wacker Portable Compactor Forward-Reverse Plates Catalog/Price Sheet	
Wacker	35F	Wacker Portable Compactor Vibratory Drum & Trench Rollers Catalog/Price Sheet	
Weiler	42A	Weiler Asphalt Pavers Catalog/Price Sheet	
Weiler	42B	Weiler Road Wideners Catalog/Price Sheet	
Weiler	42C	Weiler Static, Split-Drum Rollers Catalog/Price Sheet	
Weiler	42D	Weiler Combination Compactor Catalog/Price Sheet	
Weiler	42E	Weiler Tack Distributors Catalog/Price Sheet	
Wirtgen	36A	Wirtgen Asphalt Milling/Planing/Reclaiming Machines Catalog/Price Sheet	

Bidder:			
Invitation #: SM10-16			
This Form is intended for base sample pricing. Pricing should reflect the discount given on Form D. All units should include enough minimum equipment/options to perform.			
Manufacturer	H-GAC Product Code	Base Line Item Description	Base Sample Price (\$)
Anderson Machinery	40AD1	LAY-MOR Sweepmaster 200	
Anderson Machinery	40BD1	LAY-MOR Sweepmaster 300	
Anderson Machinery	40CD1	LAY-MOR Sweepmaster 400	
Arrow-Master	39AD1	Mobil Drop Hammer 1350T	
Asphalt Zipper	01AD1	Asphalt Milling/Planing/Reclaiming Machine: Asphalt Zipper, AZ300B	
Basic	03AD1	Pneumatic Roller: Basic, 700	
BearCat	50AD1	Distributor BC-502	
Bear Cat	50BD1	Chip Spreaders 8-16 /10-20	
Bear Cat	50CD1	Kracker Crack sealer	
Bergkamp	04AD1	Pothole Patchers: Bergkamp, FP5	
Bergkamp	04BD1	Spray Injection Truck Mounted Patcher: Bergkamp, SP5	
Bomag	05AD1	Single Drum Vibratory Rollers BW124D-40	
Bomag	05BD1	Tandem Drum Vibratory Rollers BW900-2	
Bomag	05CD1	Combination Rollers BW138AC	
Bomag	05DD1	Pneumatic Rollers BW11RH	
Bomag	05ED1	Light Equipment, Tampers and Plates BVT65	
Bomag	05FD1	Light Equipment, Walk Behind and Trench Rollers BMP8500	
Bomag	05GD1	Light Equipment, Small Ride on Rollers BW900	
Bomag	05HD1	Milling/Planing Pricing Catalog/Price Sheet BW900-50	
Bomag	05ID1	Asphalt Recycling & Soil Stabilization MPH364R	
Bomag	05JD1	Landfill Compactors BC772RB	
Bomag	05KD1	High Speed/Embankment Compactors BC462EB	
Bomag	05LD1	Paving ProPaver 413	
Broce	06AD1	Street/Road broom: Broce CRT 350	
Carlson	44AD1	Carlson Asphalt Paver-Screeds CP-100	
Case Construction	07AD1	Single Smooth Drum Vibratory Roller: Case Construction, SV212	
Case Construction	07BD1	Tandem Drum Vibratory Roller: Case Construction, DV201	
Case Construction	07CD1	Case Pneumatic Roller DUS Sorting Stations	
Caterpillar	08AD1	Single Smooth Drum Vibratory Roller: Caterpillar, CS44/CS54	
Caterpillar	08BD1	Tandem Drum Vibratory Roller: Caterpillar, CB14B	
Caterpillar	08CD1	Combination Roller: Caterpillar, CC24B	
Caterpillar	08DD1	Pneumatic Roller: Caterpillar, CW14	
Caterpillar	08ED1	Asphalt Milling/Planing/Reclaiming Machine: Caterpillar, PM102/ PM200	
Caterpillar	08FD1	Asphalt Paver-Screed: Caterpillar, AP500E	
Cedar Rapids (Terex)	09AD1	Paver-Screed: Cedar Rapids (Terex): CR 352 L	
Cedar Rapids (Terex)	09BD1	Cedar Rapids (Terex): MS2 Windrow Pickup Machine	
Cedar Rapids (Terex)	09CD1	Cedar Rapids (Terex): MS4 Mat Finish Asphalt Pickup Machine	
Cemen Tech	10AD1	Cemen Tech Mobile Concrete Mixer MCD Series	
Cimline	11AD1	Melter-Applicator/Crack Sealer: Cimline, 60DNG	
Cimline	11BD1	Cimline, CCS Crack Saw 60DNG	
Cimline	11CD1	Miscellaneous: Cimline, PCR25 Router	
Crafco	13AD1	Pothole Patchers: Crafco, Patcher I	
Crafco	13BD1	Melter-Applicators/Crack Sealers: Crafco, EZ50	
Crafco	13DD1	Crafco, 200 Pavement Cutter	
Crafco	13ED1	Crafco, Crack-Vac Asphalt Crack Cleaner	
Crafco	13FD1	Crafco, BAX Skid-Mounted Marker Placer	
Crafco	13GD1	Crafco, SuperSeal Coater 550 Base Unit	
Doppstadt	14AD1	Doppstadt Slow Speed High Torque Shredder Model DW2060	
Doppstadt	14BD1	Doppstadt High Speed Grinders AK203	
Doppstadt	14CD1	Doppstadt Trommel/Star Screens 514	
Doppstadt	14DD1	Doppstadt Picking/Sorting Stations PS6090	
Duraco	15AD1	Pothole Patcher: Duraco, Durapatcher 125DJT Trailer	

Duraco	15BD1	Emulsion Storage Tanks: Duraco, Dura Patcher 1000TT trailer	
Dynapac	16AD1	Single Smooth Drum Vibratory Roller, : Dynapac, CA134D	
Dynapac	16BD1	Tandem Drum Vibratory Roller: Dynapac, CC800	
Dynapac	16CD1	Combination Roller: Dynapac, CC102C	
Dynapac	16DD1	Static Roller: Tri Drum: Dynapac, CS142N	
Dynapac	16ED1	Pneumatic Roller: Dynapac, CP142	
Dynapac	16FD1	Portable Compactor, Rammer/Tapper: Dynapac, LT5000	
Dynapac	16GD1	Portable Compactor, Forward Plate: Dynapac, LF45	
Dynapac	16HD1	Portable Compactor, Forward-Reverse Plate: Dynapac, LG160	
Dynapac	16ID1	Portable Compactor, Vibratory Drum & Trench Rollers: Dynapac, LP750	
Dynapac	16JD1	Paver-Screed: Dynapac, F4C	
Dynapac	16KD1	Dynapac, MF250 Mobile Asphalt Feeder	
Ecoverse Industries	41AD1	Doppstadt Slow Speed High Torque Shredders DW2060	
Ecoverse Industries	41BD1	Doppstadt High Speed Grinders AK30	
Ecoverse Industries	41CD1	Doppstadt Trommel/Star Screens SM514	
Ecoverse Industries	41DD1	Doppstadt Picking/Sorting Stations DUS Sorting Station	
Ecoverse Industries	41ED1	Doppstadt Mixers DM215	
Ecoverse Industries	41FD1	Doppstadt Screw Extruders DBP-205	
Ecoverse Industries	41GD1	Backers Star Screens 3-MTA	
Ecoverse Industries	41HD1	Backhus Compost Turners 21.43	
Ecoverse Industries	41ID1	Cesaro De-packaging Tiger HS640	
Ecoverse Industries	41JD1	Waste Systems Max Extract	
Ecoverse Industries	41KD1	Waste Systems Flex Extract	
Ecoverse Industries	41LD1	Waste Systems EcoSort3000	
Etnyre	17AD1	Asphalt Distributor: Etnyre, Centennial	
Etnyre	17BD1	Chip Spreader: Etnyre, ChipSpreader	
Etnyre	17CD1	Emulsion Storage Tanks: Etnyre, 7000	
EZ-Liner	18AD1	Striping Machine: EZ-Liner, AL110	
Fort Miller FAB3 Corp. (TARCO)	38AD1	TARCO Windy 100 Vacuum Leaf Loader	
Gomaco	19AD1	Concrete Paver: Gomaco, GT-3200	
Gomaco	19BD1	Gomaco, C450 Concrete Finisher	
Hamm	20AD1	Single Smooth Drum Vibratory Roller, : Hamm, 3205	
Hamm	20BD1	Tandem Drum Vibratory Roller: Hamm, HD8 VV	
Hamm	20CD1	Combination Roller: Hamm, HD12 VT	
Hamm	20DD1	Static Roller: Three Wheeled: Hamm, HW90B	
Hamm	20ED1	Pneumatic Roller: Hamm, GRW 280	
H D Industries	45AD1	H D Industries TCM 425-100-HT 4.25 CY	
LB Performance	51AD1	Motorgraders G700	
LB Performance	51BD1	Brooms PF150	
LB Performance	51CD1	Road Widners RW80	
LB Performance	51DD1	Self Propelled Road Wideners RW-35	
LB Performance	51ED1	Paver-Screeds PF 150	
LB Performance	51FD1	Street/Road Brooms CB-90	
LB Performance	51GD1	Pneumatic Rollers PTC-15B	
LeeBoy	22AD1	Tandem Drum, Vibratory Roller: LeeBoy, 400	
LeeBoy	22BD1	Pneumatic Roller: LeeBoy, 420	
LeeBoy	22CD1	Asphalt Distributor: LeeBoy, L150T	
LeeBoy	22DD1	Paver-Screed: LeeBoy, 7000B	
LeeBoy	22ED1	3000 Force Feed Loader	
LeeBoy	22FD1	1200S Multi-Purpose Asphalt Maintenance Patcher	
LeeBoy	22GD1	LeeBoy Motorgraders	
Lincoln Paving	23AD1	Windrow Asphalt Pickup Machine: Lincoln Paving 550XL	
Maddock	53AD1	Asphalt Milling/Planing/Reclaiming Machine: Maddock AM18 Backhoe Mill Attachment	
Maddock	53BD1	Rotary Ditching Machine: Maddock Model 90 Ditcher	
Mauldin	24AD1	Tandem Drum, Vibratory Roller: Mauldin, 1450	
Mauldin	24BD1	Static Roller: Tandem Drum: Mauldin, 1450S	
Mauldin	24CD1	Pneumatic Roller: Mauldin, 4700	
Mauldin	24DD1	Asphalt Distributor: Mauldin, MT300	
Mauldin	24ED1	Paver-Screed: Mauldin, 550E	
Mauldin	24FD1	Miscellaneous: Mauldin, M413XT Maintainer	
M-B Companies	25AD1	Striping Machine: M-B Companies, 155	
M-B Companies	25BD1	M-B Companies, HL Wheeled Loader Attachment Broom	

M-B Companies	25CD1	M-B Companies, 53T Tow-Behind Road Broom	
M-B Companies	25DD1	M-B Comp., MCD-WB Walk-Behind Self-Propelled Broom	
M-B Companies	25ED1	M-B Companies, Vulcan Kettle Thermoplastic Melting Kettle	
M-B Companies	25FD1	M-B Companies, Mercury Trailer System Thermoplastic Melting System	
Midland	26AD1	Midland Machinery, Self Propelled Road Widener SP-6	
Morbark	27AD1	Morbark Predator Shredder HT-1000	
Oshkosh	46AD1	H Series Snowblower	
Oshkosh	46BD1	H Series Snowbroom	
Oshkosh	46CD1	HT Series Chassis	
Oshkosh	46DD1	P Series	
PB Loader Corporation	52AD1	Truck Mounted Patcher MODEL B-1.5	
PB Loader Corporation	52BD1	Truck Mounted Emulsion Sprayers PB MODEL 65-CS	
PB Loader Corporation	52CD1	Truck Mounted Loader MODEL L-100-CT PB	
PennzRoads	43AD1	Water Absorbing Products 2014-D	
PennzRoads	43BD1	Organic Petroleum 2014-D	
PennzRoads	43CD1	Organic Nonpetroleum 2014-D	
PennzRoads	43DD1	Electrochemical 2014-D	
PennzRoads	43ED1	Synthetic Polymer 2014-D	
PennzRoads	43FD1	Clay Additives 2014-D	
Pitbull	48AD1	Pitbull 2300 Portable Screening Plant 2300E	
Pitbull	48BD1	Pitbull 20' Std Grnd Level side Convey 900577HKX	
Pitbull	48CD1	Pitbull Stationary Grizzly BOX Equipment PB148	
RoadHog, Inc.	37AD1	Asphalt Milling/Planing/Reclaiming Machine: RoadHog, Inc. Attachments CP12LF	
Roadtec	28AD1	Asphalt Milling/Planing/Reclaiming Machine:Roadtec, RX-100e	
Roadtec	28BD1	Paver-Screed: Roadtec, RP-170e	
Roadtec	28CD1	Material Transfer Vehicle: Roadtec MTV-1000	
Roadtec	28DD1	Street/Road Broom: Roadtec FB-100	
Rosco	29AD1	Pneumatic Roller: Rosco, 915	
Rosco	29BD1	Pothole Patcher: Rosco, RA400	
Rosco	29CD1	Asphalt Distributor: Rosco, Maximizer 3	
Rosco	29DD1	Chip Spreader: Rosco, CSM	
Rosco	29ED1	Street/Road Broom: Rosco, RB48	
Rosco	29FD1	Water Truck Body DS3000	
Sakai	30AD1	Single Smooth Drum Vibratory Roller, : Sakai SV201D	
Sakai	30BD1	Tandem Drum Vibratory Roller: Sakai CR270	
Sakai	30CD1	Combination Roller: Sakai TW320-1	
Sakai	30DD1	Vibratory Pneumatic Roller: Sakai GW750-2	
Sakai	30ED1	Static Roller: Tandem Drum: Sakai R2H-2 three wheel	
Sakai	30FD1	Sakai Light Equipment, Rammers, Tampers and Plates RS45	
Sakai	30GD1	Sakai Light Equipment, Walk Behind and Trench Rollers HS67ST	
Schwarze	31AD1	Pothole Patcher: Schwarze, Street Maxx	
Spaulding	47AD1	Melter-Applicator/crack sealer: Spaulding100MKS	
Spaulding	47BD1	Pathole Patcher body: Spaulding3TAsphalt body	
Spaulding	47CD1	Asphalt Heater/reclaimer: Spaulding 1T tow behind	
Spaulding	47DD1	Asphalt tack distributors	
Spaulding	47ED1	Single drum vibratory roller	
Superior Broom	32AD1	Street/Road Broom: Superior Broom, SM80CT	
Swenson	33AD1	Snow Removal Equipment, Swenson Electric V-Box Spreader	
Vogele	48AD1	Vogele Asphalt Pavers-Screeds	
Volvo Construction	34AD1	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD25D	
Volvo Construction	34BD1	Tandem Drum Vibratory Roller: Volvo Construction, DD14S	
Volvo Construction	34DD1	Pneumatic Roller: Volvo Construction, PT125R	
Volvo Construction	34FD1	Paver: Volvo Construction: PF2181	
Wacker	35AD1	Tandem Drum Vibratory Rollers RD12A	
Wacker	35BD1	Portable Compactor Rammer/Tappers BS52Y	
Wacker	35CD1	Portable Compactor Electric Rammer/Tappers ES52Y	
Wacker	35DD1	Portable Compactor Forward Plates WP1540AW	
Wacker	35ED1	Portable Compactor Forward-Reverse Plates BPU2540A	
Wacker	35FD1	Portable Compactor Vibratory Drum & Trench Rollers RS800A	
Weiler	42AD1	Weiler Asphalt Pavers P385A	
Weiler	42BD1	Weiler Road Wideners W330	
Weiler	42CD1	Weiler Static, Split-Drum Rollers C307	
Weiler	42DD1	Weiler Combination Compactor C310	

Weiler	42ED1	Weiler Tack Distributors Catalog/Price Sheet TT250	
Wirtgen	36AD1	Wirtgen Asphalt Milling/Planing/Reclaiming Machines 35	

This is a sample of the contract that will be sent to you for execution IF you are recommended for a contract award. Do NOT complete and return with your Response.

A CONTRACT BETWEEN **HOUSTON-GALVESTON AREA COUNCIL**, Houston, Texas AND _____

This Contract is made and entered into by the **Houston-Galveston Area Council of Governments**, hereinafter referred to as **H-GAC**, having its principal place of business at 3555 Timmons Lane, Suite 100, Houston, Texas 77027, AND, _____ hereinafter referred to as the **CONTRACTOR**, having its principal place of business at _____.

ARTICLE 1: SCOPE OF SERVICES

The parties have entered into a _____ Contract to become effective as of _____, and to continue through _____ (the "**Contract**"), subject to extension upon mutual agreement of the **CONTRACTOR** and **H-GAC**. **H-GAC** enters into the Contract as Agent for participating governmental agencies, each hereinafter referred to as **END USER**, for the purchase of _____ offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell _____ through the **H-GAC** Contract to **END USERS**.

ARTICLE 2: THE COMPLETE AGREEMENT

The Contract shall consist of the documents identified below in order of precedence:

1. The text of this Contract form, including but not limited to, Attachment A
2. General Terms and Conditions
3. Bid Specifications No: _____, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: _____, including but not limited to, prices and options offered

All of which are either attached hereto or incorporated by reference and hereby made a part of this Contract, and shall constitute the complete agreement between the parties hereto. This Contract supersedes any and all oral or written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Contract cannot be modified without the written consent of both parties.

ARTICLE 3: LEGAL AUTHORITY

CONTRACTOR and **H-GAC** warrant and represent to each other that they have adequate legal counsel and authority to enter into this Contract. The governing bodies, where applicable, have authorized the signatory officials to enter into this Contract and bind the parties to the terms of this Contract and any subsequent amendments thereto.

ARTICLE 4: APPLICABLE LAWS

The parties agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, directives, issuances, ordinances, and laws in effect or promulgated during the term of this Contract.

ARTICLE 5: INDEPENDENT CONTRACTOR

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

ARTICLE 6: END USER AGREEMENTS

H-GAC acknowledges that the **END USER** may choose to enter into an End User Agreement with the **CONTRACTOR** through this Contract and that the term of said Agreement may exceed the term of the **H-GAC** Contract. However this acknowledgement is not to be construed as **H-GAC's** endorsement or approval of the End User Agreement terms and conditions. **CONTRACTOR** agrees not to offer to, agree to or accept from **END USER** any terms or conditions that conflict with or contravene those in **CONTRACTOR's** **H-GAC** contract. Further, termination of this Contract for any reason shall not result in the termination of the underlying End User Agreements entered into between **CONTRACTOR** and any **END USER** which shall, in each instance, continue pursuant to their stated terms and duration. The only effect of termination of this Contract is that **CONTRACTOR** will no longer be able to enter into any new End User Agreements with **END USERS** pursuant to this Contract. Applicable **H-GAC** order processing charges will be due and payable to **H-GAC** on

any End User Agreements surviving termination of this Contract between **H-GAC** and **CONTRACTOR**.

ARTICLE 7: SUBCONTRACTS & ASSIGNMENTS

CONTRACTOR agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Contract or any right, title, obligation or interest it may have therein to any third party without prior written notice to **H-GAC**. **H-GAC** reserves the right to accept or reject any such change. **CONTRACTOR** shall continue to remain responsible for all performance under this Contract regardless of any subcontract or assignment. **H-GAC** shall be liable solely to **CONTRACTOR** and not to any of its Subcontractors or Assignees.

ARTICLE 8: EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS

CONTRACTOR shall maintain during the course of its work, complete and accurate records of items that are chargeable to **END USER** under this Contract. **H-GAC**, through its staff or its designated public accounting firm, the State of Texas, or the United States Government shall have the right at any reasonable time to inspect copy and audit those records on or off the premises of **CONTRACTOR**. Failure to provide access to records may be cause for termination of this Contract. **CONTRACTOR** shall maintain all records pertinent to this Contract for a period of not less than five (5) calendar years from the date of acceptance of the final contract closeout and until any outstanding litigation, audit or claim has been resolved. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. **CONTRACTOR** further agrees to include in all subcontracts under this Contract, a provision to the effect that the subcontractor agrees that **H-GAC'S** duly authorized representatives, shall, until the expiration of five (5) calendar 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 any transaction relating to the subcontract.

ARTICLE 9: REPORTING REQUIREMENTS

CONTRACTOR agrees to submit reports or other documentation in accordance with the General Terms and Conditions of the Bid Specifications. If **CONTRACTOR** fails to submit to **H-GAC** in a timely and satisfactory manner any such report or documentation, or otherwise fails to satisfactorily render performance hereunder, such failure may be considered cause for termination of this Contract.

ARTICLE 10: MOST FAVORED CUSTOMER CLAUSE

If **CONTRACTOR**, at any time during this Contract, routinely enters into agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to **H-GAC** on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to **H-GAC**, **CONTRACTOR** shall notify **H-GAC** within ten (10) business days thereafter of that offering and this Contract shall be deemed to be automatically amended effective retroactively to the effective date of the most favorable contract, wherein **CONTRACTOR** shall provide the same prices, warranties, benefits, or terms to **H-GAC** and its **END USER**. **H-GAC** shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If **CONTRACTOR** is of the opinion that any apparently more favorable price, warranty, benefit, or term charged and/or offered a customer during the term of this Contract is not in fact most favored treatment, **CONTRACTOR** shall within ten (10) business days notify **H-GAC** in writing, setting forth the detailed reasons **CONTRACTOR** believes aforesaid offer which has been deemed to be a most favored treatment, is not in fact most favored treatment. **H-GAC**, after due consideration of such written explanation, may decline to accept such explanation and thereupon this Contract between **H-GAC** and **CONTRACTOR** shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties, benefits, or terms to **H-GAC**.

The Parties accept the following definition of routine: A prescribed, detailed course of action to be followed regularly; a standard procedure. *EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, or contractor, which are not within bidder's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.*

ARTICLE 11: SEVERABILITY

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 12: DISPUTES

Any and all disputes concerning questions of fact or of law arising under this Contract, 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 **CONTRACTOR**. The decision of the Executive Director or his designee shall be final and conclusive unless,

within thirty (30) days from the date of receipt of such notice, **CONTRACTOR** requests a rehearing from the Executive Director of **H-GAC**. In connection with any rehearing under this Article, **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. **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, **CONTRACTOR** shall proceed diligently with the performance of this Contract and in accordance with **H-GAC'S** final decision.

ARTICLE 13: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the **CONTRACTOR** and an **END USER**, **CONTRACTOR'S** total liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify **H-GAC** described in Article 14, is limited to the price of the particular products/services sold hereunder, and **CONTRACTOR** agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will **CONTRACTOR** be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. **CONTRACTOR** understands and agrees that it shall be liable to repay and shall repay upon demand to **END USER** any amounts determined by **H-GAC**, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Contract.

ARTICLE 14: LIMIT OF H-GAC'S LIABILITY AND INDEMNIFICATION OF H-GAC

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

ARTICLE 15: TERMINATION FOR CAUSE

H-GAC may terminate this Contract for cause based upon the failure of **CONTRACTOR** to comply with the terms and/or conditions of the Contract; provided that **H-GAC** shall give **CONTRACTOR** written notice specifying **CONTRACTOR'S** failure. If within thirty (30) days after receipt of such notice, **CONTRACTOR** shall not have either corrected such failure, or thereafter proceeded diligently to complete such correction, then **H-GAC** may, at its option, place **CONTRACTOR** in default and the Contract shall terminate on the date specified in such notice. **CONTRACTOR** shall pay to **H-GAC** any order processing charges due from **CONTRACTOR** on that portion of the Contract actually performed by **CONTRACTOR** and for which compensation was received by **CONTRACTOR**.

ARTICLE 16: TERMINATION FOR CONVENIENCE

Either **H-GAC** or **CONTRACTOR** may cancel or terminate this Contract at any time by giving thirty (30) days written notice to the other. **CONTRACTOR** may be entitled to payment from **END USER** for services actually performed; to the extent said services are satisfactory to **END USER**. **CONTRACTOR** shall pay to **H-GAC** any order processing charges due from **CONTRACTOR** on that portion of the Contract actually performed by **CONTRACTOR** and for which compensation is received by **CONTRACTOR**.

ARTICLE 17: CIVIL AND CRIMINAL PROVISIONS AND SANCTIONS

CONTRACTOR agrees that it will perform under this Contract in conformance with safeguards against fraud and abuse as set forth by **H-GAC**, the State of Texas, and the acts and regulations of any funding entity. **CONTRACTOR** agrees to notify **H-GAC** of any suspected fraud, abuse or other criminal activity related to this Contract through filing of a written report promptly after it becomes aware of such activity.

ARTICLE 18: GOVERNING LAW & VENUE

This Contract 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 this Contract shall lie exclusively in Harris County, Texas. Disputes between **END USER** and **CONTRACTOR** are to be resolved in accord with the law and venue rules of the state of purchase. **CONTRACTOR** shall immediately notify **H-GAC** of such disputes.

ARTICLE 19: PAYMENT OF H-GAC ORDER PROCESSING CHARGE

CONTRACTOR agrees to sell its products to **END USERS** based on the pricing and other terms of this Contract, including, but not limited to, the payment of the applicable **H-GAC** order processing charge. On notification from an **END USER** that an order has been placed with **CONTRACTOR**, **H-GAC** will invoice **CONTRACTOR** for the applicable order processing charge. Upon delivery of any product/service by **CONTRACTOR** and acceptance by **END USER**, **CONTRACTOR** shall, within thirty (30) calendar days or ten (10) business days after receipt of payment, whichever is less, pay **H-GAC** the full amount of the applicable order processing charge, whether or not **CONTRACTOR** has received an invoice from **H-GAC**. For sales made by **CONTRACTOR** based on this contract, including sales to entities without Interlocal Contracts, **CONTRACTOR** shall pay the applicable order processing charges to **H-GAC**. Further, **CONTRACTOR** agrees to encourage entities who are not members of **H-GAC's** Cooperative Purchasing Program to execute an **H-GAC** Interlocal Contract. **H-GAC** reserves the right to take appropriate actions including, but not limited to, contract termination if **CONTRACTOR** fails to promptly remit **H-GAC's** order processing charge. In no event shall **H-GAC** have any liability to **CONTRACTOR** for any goods or services an **END USER** procures from **CONTRACTOR**.

ARTICLE 20: LIQUIDATED DAMAGES

Any liquidated damages terms will be determined between **CONTRACTOR** and **END USER** at the time **END USER's** purchase order is placed.

ARTICLE 21: PERFORMANCE BONDS FOR INDIVIDUAL ORDERS

Except as described below for fire apparatus, **CONTRACTOR** agrees to provide a Performance Bond at the request of **END USER** within ten (10) days of receipt of **END USER's** purchase order.

It shall be standard procedure for every order received for fire apparatus that a Performance Bond in the amount of the order be provided to the **END USER**. Failure of **CONTRACTOR** to provide such performance bond within ten (10) days of receipt of **END USER's** order may constitute a total breach of contract and shall be cause for cancellation of the order at **END USER's** sole discretion. **END USER** may choose to delete the requirement for a Performance Bond at **END USER's** sole discretion. If the bond requirement is waived, **END USER** shall be entitled to a price reduction commensurate with the cost that would have been incurred by **CONTRACTOR** for the bond.

ARTICLE 22: CHANGE OF CONTRACTOR STATUS

CONTRACTOR shall immediately notify **H-GAC**, in writing, of ANY change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name, and shall also advise whether or not this Contract shall be affected in any way by such change. **H-GAC** shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Contract.

ARTICLE 23: LICENSING REQUIRED BY TEXAS MOTOR VEHICLE BOARD [IF APPLICABLE]

CONTRACTOR will for the duration of this Contract maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Contract period, any **CONTRACTOR'S** license is not renewed, or is denied or revoked, **CONTRACTOR shall** be deemed to be in default of this Contract unless the Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to **H-GAC** upon request.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives.

Signed for **Houston-Galveston Area Council**, Houston, Texas: _____
Jack Steele, Executive Director

Attest for **Houston-Galveston Area Council**, Houston, Texas: _____
Deidre Vick, Director of Public Services
Date: _____, 20__

Signed for _____

Printed Name & Title: _____ Date: _____, 20__

Attest for _____

Printed Name & Title: _____ Date: _____, 20__