

This **CONTRACT REGARDING E-WASTE COLLECTION AND DISPOSAL SERVICES** ("Contract") is between Orangeburg County ("Owner") and _____ ("Contractor").

The Parties hereby agree as follows:

1. Definitions. In this Contract, the following capitalized words have the following meanings:

- A. Applicable Law** means any and all laws, regulations, and legal duties of that apply to the provision of the services necessary to complete the Scope of Work.
- B. Contract** means this **CONTRACT REGARDING ELECTRONIC WASTE COLLECTION & DISPOSAL SERVICES** between Orangeburg County and _____ including all documents attached or referenced herein.
- C. Contractor** means _____, an entity that represents itself to the Owner as fully qualified to provide the services set forth in the Scope of Work. The current and last known address for the Contractor is as follows:

Attn: _____, **Its** _____

() - _____ **Main Office Phone Number**

() - _____ **Main Office Fax Number**

- D. Effective Date** means the date that the Contract first bears the signature of both parties' representatives. The County Attorney shall complete the Effective Date blank on the front of the duplicate original contracts and initial same.
- E. FOIA** means the South Carolina Freedom of Information Act.
- F. Owner** means the County of Orangeburg, South Carolina, a political subdivision of the State of South Carolina. The current and last known address of the Owner is as follows:

County of Orangeburg
Attn: County Administrator
P.O. Drawer 9000 (29116-9000)
1437 Amelia St.
Orangeburg SC 29115
(803) 533-6101 Administrator's Office Phone Number
(803) 533-6104 Administrator's Office Fax Number

- G. Parties** means the Owner and the Contractor.
- H. Project Consultant** There is no Project Consultant for this Contract.
- I. Representations** means those representations Contractor made in writing to Owner as part of the procurement process, including in Contractor's Proposal and during the contract negotiation period. Those Representations are set forth in **Attachment 2**. Contractor acknowledges that Owner reasonably relied on Contractor's Representations in selecting Contractor to perform the Scope of Work set forth in this Contract.
- J. RFP** means Owner's **RFP FY No. 17-1201** as posted on its website.
- K. Scope of Work** means the work described in **Attachment 1** completed in accordance with all Applicable Law.
- L. Specifications, Drawings & Plans** There are no Specifications, Drawings & Plans for this Contract
- M. Representations** means those representations Contractor made in writing to Owner as part of the procurement process. Those Representations are contained on **Attachment 2**. In addition, Representations includes Contractor's representation that it is a highly

experienced in electronic waste collection and disposal and has a consistent history of compliance with Applicable Law in carrying out those services. Contractor is aware that Owner considers the Representations to be material to its decision to select Contractor to perform the services and is relying on the Representations in entering this Contract.

2. Contractor's Duties.

A. Security. This Contract does not require any third-party surety.

B. Scope of Work. The Contractor shall:

- i.** Begin work on the Scope of Work within twenty (20) days of the date that the last of the parties executes this Contract;
- ii.** Diligently perform the Scope of Work from the date that Contractor begins the work through completion of the Term;
- iii.** Perform the Scope of Work in accordance with Applicable Law and the Representations without unauthorized deviation; and
- iv.** Issue receipts to the Owner at each pick up describing the electronic waste picked up, acknowledging that Contractor has taken complete ownership and control of the items and will dispose of same in accordance with Applicable Law.

A. Field Representative. The Contractor shall designate a person as Contractor's Designated Field Representative and, until further written notice from the Contractor, that person is identified as follows:

Name: _____
Contact Information:
Mobile: _____
Office: _____

3. Owner's Duties.

A. Payment. In exchange for the Contractor's performance of the Scope of Work timely and without unauthorized deviation, the Owner shall pay the Contractor the Contract Price in accordance with the Price Terms of this Contract.

B. Field Representative. Owner shall designate a person as Owner's Designated Field Representative and, until further written notice from Owner, that person is identified as follows:

Name: Pat Risa, Solid Waste Manger
Contact Information:
Mobile: (803) 308-0810
Office: (803) 536-5045

C. Project Consultant. Owner shall designate a person as Owner's Project Consultant who will make periodic visits for the job site and act as an agent for Owner to ensure the Scope of Work is accomplished and suitable to the Owner and the Project Consultant. Until further written notice from Owner, the Project Consultant is identified as follows:

Name: Pat Daniels, Elert & Associates
Contact Information:
Mobile: (651) 226-4507
Office: (651) 705-1235

4. Price Terms.

- A. Contract Price.** Owner shall pay Contractor _____ per pound for televisions and monitors containing Cathode-Ray-Tube (CRT) glass. Contractor will collect and dispose of all other electronic waste at no charge to Owner.
- B. Payment Schedule.** The Contractor will invoice Owner on a consistent periodic basis, such as weekly, bi-weekly or monthly. The invoices will be based on weight tickets and/or reports that document the weight of televisions and monitors containing Cathode-Ray-tube (CRT) glass.
- 5. Deviations.** To be enforceable against the Owner as a term of this Contract, any deviation from the Scope of Work and Specifications must receive the appropriate level of authorization from the Owner. If the Contract Price is \$20,000 or under, then the authorization level necessary to bind the Owner to a deviation is written approval from the County Administrator; if the Contract Price exceeds \$20,000, then the authorization level necessary to bind the Owner to a deviation is a favorable vote of the Orangeburg County Council.
- 6. Miscellaneous Terms.**
- A. Accounting System Requirements.** The Contractor's accounting system shall:
- i. Permit timely development of all cost data the Owner finds appropriate;
 - ii. Supply the County with the cost data in the form the Owner finds appropriate; and
 - iii. Be adequate to allocate costs in accordance with generally accepted accounting principles.
- B. Assignment.** Neither party shall assign any right or interest it has in this Contract without advance, written consent to the assignment by the other party to this Contract.
- C. Audit.** At reasonable times during the performance of the Contract and for three (3) years after completion of the Scope of Work, the Owner shall be entitled to audit the books and records of the Contractor as is relevant to the performance of the Contract. The Contractor shall not charge the Owner for any such audit. The Contractor shall maintain books and records relevant to the performance of this Contract for a period of three (3) years from the date of final payment under the Contract.
- D. Authority.** Each person executing this Contract represents that s/he (1) is duly authorized by the party to execute this Contract on the party's behalf and (2) has determined that the execution and delivery of this Contract has been authorized by all necessary action. The Parties agree to provide the other upon request reasonable evidence confirming the existence of such authority.
- E. Captions.** The captions that appear in this Contract are used only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any section.
- F. Costs and Fees.** If either party shall incur costs or fees of any kind in connection with the negotiation, execution or modification of the Contract, then that party shall be solely financially responsible for those costs or fees, including, but not limited to, those arising from accounting, legal, and real estate services.
- G. Default.** Failure of either party to abide by the terms of the Contract shall be a default and a breach of contract.
- H. Duplicate Originals.** The Contract will be executed in duplicate and distributed in a manner that provides each party with a duplicate original of the Contract for its business records.
- I. FOIA and Legal Process Compliance.** Contractor is aware that Owner, as a political subdivision of the State of South Carolina, is subject to FOIA. Contractor is aware that Owner, by virtue of being a legally recognized entity, is subject to legal process. Contractor

is aware that pursuant to FOIA or legal process, Owner will be required to disclose information and documents relevant to this Contract and the provision of services pursuant to this Contract. As long as Owner is providing information and documents to a third party in response to a FOIA request or legal process, Contractor shall have no legal recourse against Owner regarding the disclosure of the information and documents.

Contractor hereby agrees that this Contract and all payment-related information may be disclosed by the Owner.

To the extent information or documentation sought pursuant to FOIA or legal process is under the control of Contractor, Contractor shall provide the information and documents to Owner necessary for Owner to comply with its legal duties under FOIA and any legal process. In the event that Contractor concludes that the information and/or documents under its sole control are legally not subject to disclosure, Contractor shall take full responsibility, including all financial responsibility, to legally contest disclosure of the information and/or documents prior to the FOIA exemption or legal process response date and, if Contractor fails to act by that deadline, Contractor shall be deemed for all purposes to have given Owner consent to release the information and/or documents.

- J. Forum Selection.** In the event that the Contractor has the right to file a lawsuit against the Owner, the Contractor shall file such lawsuit only in the Orangeburg County Court of Common Pleas.
- K. Governing Law.** Interpretation of this Contract shall be in accordance with South Carolina law.
- L. Incorporation by Reference.** The attachments to this document are incorporated by reference as if set forth verbatim in this Contract. In addition, the Orangeburg County Procurement Code is incorporated by reference into this Contract for purposes of clarifying any ambiguity in the Contract.
- M. Indemnity and Hold Harmless.** The Parties have intentionally not agreed to contractual indemnity or hold harmless provisions. Both parties reserve the right to assert common law indemnity to the extent that common law indemnity may be legally recognized under South Carolina law.
- N. Insurance.** Contractor shall comply with the South Carolina Workers' Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by the Act. In the event Contractor is excluded from the requirements of the Act, Contractor shall voluntarily carry workers' compensation coverage for Contractor's employees during the period of time that the Scope of Work is performed. In addition, Contractor shall continue to carry the types and amounts of insurance coverage Contractor represented to Owner during the RFP process as then being in effect.
- O. Inspection.** The Owner has no right of inspection of premises owned by the Contractor.
- P. Merger.** The written and fully executed Contract shall be the entire agreement between the parties regarding the RFP.
- Q. Modification.** To be enforceable, any modification other than a deviation in the Scope of Work and Specifications must be in writing and signed by both parties. To be enforceable against the Owner, a deviation in the Scope of Work or Specifications must be authorized in accordance with the "Deviations" provision of this Contract.
- R. Non-Appropriation.** If this is a multi-year contract, the Owner shall have no liability to complete the Contract except as to payment for services performed prior to giving the Contractor notice of termination of the Contract due to non-appropriation.
- S. Non-Discrimination.** Contractor shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, national origin or disability. Contractor

shall comply with all relevant and applicable state and federal laws against discrimination, including, but not limited to, the following: Titles VI and VII of the Civil Rights Act (42 U.S.C. § 2000d et. seq.) and the United States Department of Justice Regulations issued pursuant to those Titles (28 C.F.R. Part 42); the Age Discrimination Act of 1985 (42 U.S.C. §§ 6101-07); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et. seq.) and its associated regulations. Breach of this provision shall be deemed a material breach of this Contract.

- T. Notice.** All notices given in connection with the Contract shall be deemed fully given, made, and/or sent when in writing and delivered to the party's Designated Field Representative whose name and contact information is set forth in this Contract with a copy of same mailed to the party at its last known address. In the event that a party fails to keep the name and contact information regarding its agent current, notice shall be deemed fully given, made and/or sent when in writing, addressed to the party at its last known address, at the time it is deposited with the United States Postal Service affixed with sufficient first class postage.
- U. Regulated Activities.** To the extent that the Scope of Work is subject to federal or state statutes, regulations and industry standards, the Contractor represents to Owner that it will carry out the Scope of Work in accordance with same.
- V. Rights and Remedies.** The Contractor (a) accepts that the rights and remedies listed in Article 7 of the Orangeburg County Procurement Code are Contractor's exclusive rights and remedies concerning disputes arising from the procurement process and the Contract and (b) waives all other rights or remedies otherwise provided by law. The Contractor acknowledges that Article 7 limits the Contractor's remedies to those set forth in the Article.
- W. Separate and Independent Entities.** Each party to this Contract is a separate and independent entity from the other party to this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership, joint venture or any relationship other than that of separate and independent entities. Neither party shall represent itself as an agent or employee of the other for any purpose in the performance of this Contract.
- X. Subcontractors.** Contractor is aware that, in Owner's process of selecting a vendor, Owner relied heavily on Contractor's unique qualifications for performing the Scope of Work and on the identity of subcontractors in the Contractor's proposal. As a result, Contractor is limited to using the subcontractors it identified in its proposal in completing the Scope of Work.
- Y. Successors.** This Contract shall be binding upon and inure to the benefit of the successors of each party.
- Z. Supplemental Terms.** If the Parties have agreed to supplemental terms those are set forth in writing and attached to this Contract.
- AA. Taxes.** Contractor shall be responsible for payment of all federal, state and local taxes as well as business license fees arising out of Contractor's carrying out of the Scope of Work. For purposes of this provision, "taxes" shall include, but not be limited to, federal and state income, social security and unemployment insurance taxes.
- BB. Waiver.** One or more waivers of any term of this Contract by a party shall not be construed as a waiver of a subsequent breach of the same term.

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IN WITNESS WHEREOF, the Parties have executed this Contract on the dates set forth below:

WITNESS:

County of Orangeburg

By: _____

Harold M. Young

Its: **County Administrator**

Date: _____

As authorized by Orangeburg County Council at its regular meeting on _____, 2016 Agenda Item Number _____

WITNESS:

By: _____

Its: _____

Date: _____
