

RESOLUTION NO. 2010-716

Adopted by the Sacramento City Council

December 14, 2010

APPROVING THE USE OF COOPERATIVE PURCHASE AGREEMENTS FOR FLEET EQUIPMENT

BACKGROUND

- A. The Department of General Services, Fleet Management Division has ongoing requirements to purchase fleet equipment to support City departments. The City has opportunities to obtain lower pricing for these items through the use of cooperative purchase agreements through the Houston-Galveston Area Council (HGAC).
- B. In accordance with City Code 3.56.240, the City Manager may, by cooperative purchase agreements approved by City Council, purchase supplies and nonprofessional services through contracts of other governmental jurisdictions without separate competitive bidding, where it is advantageous to the City.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. HGAC cooperative purchase agreement number HT11-09 with Santex Truck Centers, LTD. is hereby approved for the purchase of up to two truck chassis in an amount not to exceed \$125,600 through April 30, 2012, or until the contract is no longer available for use.
- Section 2. HGAC cooperative purchase agreement number SM10-10 with Romco Equipment Company is hereby approved for the purchase of up to three asphalt compactors in an amount not to exceed \$99,300 through September 30, 2012, or until the contract is no longer available for use.
- Section 3. HGAC cooperative purchase agreement number CM02-09 with Volvo Construction Equipment & Services is hereby approved for the purchase of up to two portable air compressors in an amount not to exceed \$38,600 through January 31, 2011, or until the contract is no longer available for use.
- Section 4. HGAC cooperative purchase agreement number CM02-09 with Volvo Construction Equipment & Services is hereby approved for the purchase of one portable light tower in an amount not to exceed \$9,800 through January 31, 2011, or until the contract is no longer available for use.
- Section 5. HGAC cooperative purchase agreement number EM06-09 with Volvo Construction Equipment & Services is hereby approved for the purchase of one mini excavator in an amount not to exceed \$36,200 through May 31, 2011, or

until the contract is no longer available for use.

Section 6. The City Manager or the City Manager's designee is authorized to execute purchases in the amounts specified above provided that sufficient funds are available in the budget adopted for the applicable fiscal year(s).

Table of Contents:

Exhibit A: HGAC Cooperative Purchase Agreement No. HT11-09 with Santex Truck Centers, LTD

Exhibit B: HGAC Cooperative Purchase Agreement No. SM10-10 with Romco Equipment Company

Exhibit C: HGAC Cooperative Purchase Agreement No. CM02-09 with Volvo Construction Equipment & Services

Exhibit D: HGAC Cooperative Purchase Agreement No. EM06-09 with Volvo Construction Equipment & Services

Adopted by the City of Sacramento City Council on December 14, 2010 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

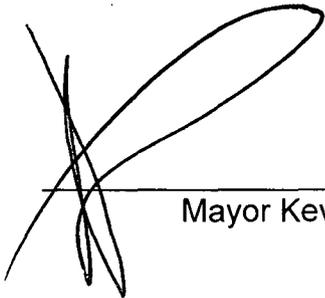
Noes: None.

Abstain: None.

Absent: None.

Attest:


Shirley Concolino, City Clerk



Mayor Kevin Johnson

A CONTRACT BETWEEN
HOUSTON-GALVESTON AREA COUNCIL
Houston, Texas
AND
Santex Truck Centers, LTD
San Antonio, Texas

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 120, Houston, Texas 77027, AND, **Santex Truck Centers, LTD** hereinafter referred to as the **CONTRACTOR**, having its principal place of business at 1380 Ackerman Road, San Antonio, Texas 78219.

ARTICLE 1: SCOPE OF SERVICES

The parties have entered into a **Medium and Heavy Trucks & Truck Bodies** Contract to become effective as of May 1, 2010, and to continue through April 30, 2012 (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 **Medium and Heavy Trucks & Truck Bodies** offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell **Medium and Heavy Trucks & Truck Bodies** 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: HT11-09, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: HT11-09, 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, proposer or contractor, which are not within bidder's/ proposer'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 Garcia, Executive Director

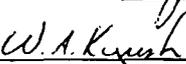
Attest for Houston-Galveston
Area Council, Houston, Texas:



Deidre Vick, Director of Public Services

Date: April 30, 2010

Signed for Santex Truck Centers, LTD:
San Antonio, Texas:



Wayne A. Kurish - V. President

Printed Name & Title: Wayne A. Kurish - V. President

Date: 4-26, 2010

Attest for Santex Truck Centers, LTD
San Antonio, Texas:



Todd Buserman Sales Mgr.

Printed Name & Title: Todd Buserman Sales Mgr.

Date: 4-27, 2010

Attachment A
Santex Truck Centers, LTD
Medium and Heavy Trucks & Truck Bodies
Contract No. HT11-09

Applicable items are the base unit (Form-D) items listed in the table below. These are complete, legal, turn-key chassis, consistent with the manufacturer's standard components, equipped with EPA 2010 threshold engines, and requiring no additional components to render them as such. Additionally, this award includes chassis manufacturer options (Form E-1) and bodies (Form E-2) included in this awardee's bid submittal.

MFGR	HGAC PRODUCT CODE	BASE UNIT DESCRIPTION	BASE PRICE
International	F1	4300M7 4x2 Conv. Cab, SRA: GVWR (min, lbs): 23,500; Engine: Intl MaxxForce 7 - 6.4L Diesel, EPA 10, 220 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Meritor MFS-08-153B) / Rear: 15,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$46,695.00
International	F2	4300M7 LP 4x2 Conv. Cab, SRA: GVWR (min, lbs): 23,500; Engine: Intl MaxxForce 7 - 6.4L Diesel, EPA 10, 220 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Meritor MFS-08-153B) / Rear: 15,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$46,788.00
International	F3	4300M7 4x4 Conv. Cab, SRA: GVWR (min, lbs): 23,500; Engine: Intl MaxxForce 7 - 6.4L Diesel, EPA 10, 220 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Fabco FSD-8A/FSD-8H) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$65,923.00
International	F4	4300 4x2 Conv. Cab, SRA: GVWR (min, lbs): 23,500; Engine: Intl MaxxForce DT - 7.6L Diesel, EPA 10, 215 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Meritor MFS-08-153B) / Rear: 15,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$49,187.00
International	F5	4300 LP 4x2 Conv. Cab, SRA: GVWR (min, lbs): 23,500; Engine: Intl MaxxForce DT - 7.6L Diesel, EPA 10, 215 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Meritor MFS-08-153B) / Rear: 15,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$49,584.00
International	F6	4400 4x2 Conv. Cab, SRA: GVWR (min, lbs): 25,500; Engine: Intl MaxxForce DT - 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Fuller FSO-8406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Meritor MFS-08-153B) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$53,068.00
International	F7	4400 LP 4x2 Conv. Cab, SRA: GVWR (min, lbs): 23,500; Engine: Intl MaxxForce DT - 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Fuller FSO-8406N 6-spd manual; Axles / GAWR (lbs): Front: 8,000 (Meritor MFS-08-153B) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$53,240.00
International	F8	4400 6x4 Conv. Cab, TRA: GVWR (min, lbs): 50,000; Engine: Intl MaxxForce DT - 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Fuller FS-6406N 6-sp manual; Axles / GAWR (lbs): Front: 10,000 (Meritor MFS-10-122A) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 169	\$58,443.00
International	F9	7300 4x2 Conv. Cab, SRA: GVWR (min, lbs): 27,500; Engine: Intl MaxxForce DT 7.6L Diesel, EPA 10, 215 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 10,000 (Meritor MFS-10-143A) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$49,956.00

International	F10	7300 4x4 Conv. Cab. SRA: GVWR (min, lbs): 27,500; Engine: Intl MaxxForce DT 7.6L Diesel, EPA 10, 215 Hp/ 560 lb-ft; Transmission: Fuller FS-5406N 6-spd manual; Axles / GAWR (lbs): Front: 10,000 (Fabco FSD-10A) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 150	\$66,739.00
International	F11	7400 4x2 Conv. Cab. SRA: GVWR (min, lbs): 27,500; Engine: Intl MaxxForce DT 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Spicer PS110-7B 7-spd manual; Axles / GAWR (lbs): 10,000 (Meritor MFS-10-143A) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 169	\$53,783.00
International	F12	7400 4x4 Conv. Cab. SRA: GVWR (min, lbs): 27,500; Engine: Intl MaxxForce DT 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Spicer PS110-7B 7-spd manual; Axles / GAWR (lbs): Front: 10,000 (Fabco FSD-10A) / Rear: 17,500 (Meritor MS-17-14X-3DFL); Wheelbase (min, inches): 150	\$73,702.00
International	F13	7400 6x4 Conv. Cab. TRA: GVWR (min, lbs): 46,000; Engine: Intl MaxxForce DT 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Fuller FR-9210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Meritor MFS-12-143A) / Rear: 34,000 (Meritor RT-34-144); Wheelbase (min, inches): 175	\$61,544.00
International	F14	7400 6x6 Conv. Cab. TRA: GVWR (min, lbs): 44,000; Engine: Intl MaxxForce DT 7.6L Diesel, EPA 10, 270 Hp/ 860 lb-ft; Transmission: Spicer PS110-7B 7-spd manual; Axles / GAWR (lbs): Front: 10,000 (Meritor MX-10-120) / Rear: 34,000 (Meritor RT-34-144); Wheelbase (min, inches): 195	\$73,625.00
International	F15	7500 4x2 Conv. Cab. SRA: GVWR (min, lbs): 35,000; Engine: Intl MaxxForce 10, 9.3L Diesel, EPA 10, 310 Hp / 1050 lb-ft; Transmission: Fuller FR-11210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Meritor MFS-12-143A) / Rear: 23,000 (Meritor RS-23-160); Wheelbase (min, inches): 169	\$58,612.00
International	F16	7500 4x4 Conv. Cab. SRA: GVWR (min, lbs): 33,000; Engine: Intl MaxxForce 10, 9.3L Diesel, EPA 10, 310 Hp / 1050 lb-ft; Transmission: Fuller FR-11210B 10-spd manual; Axles / GAWR (lbs): Front: 10,000 (Meritor MX-10-120) / Rear: 23,000 (Meritor RS-23-160); Wheelbase (min, inches): 179	\$75,307.00
International	F17	7500 6x4 Conv. Cab. TRA: GVWR (min, lbs): 52,000; Engine: Intl MaxxForce 10, 9.3L Diesel, EPA 10, 310 Hp / 1050 lb-ft; Transmission: Fuller FR-11210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Meritor MFS-12-143A) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 175	\$62,412.00
International	F18	7500 6x6 Conv. Cab. TRA: GVWR (min, lbs): 50,000; Engine: Intl MaxxForce 10, 9.3L Diesel, EPA 10, 310 Hp / 1050 lb-ft; Transmission: Fuller FR-11210B 10-spd manual; Axles / GAWR (lbs): Front: 10,000 (Meritor MX-10-120) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 195	\$78,248.00
International	F19	7600 4x2 Conv. Cab. SRA: GVWR (min, lbs): 35,000; Engine: Intl MaxxForce 11; 10.5L Diesel, EPA 10, 330 Hp / 1250 lb-ft; Transmission: Fuller FR-11210C 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Meritor MFS-12-143A) / Rear: 23,000 (Meritor RS-23-160); Wheelbase (min, inches): 160	\$75,831.00
International	F20	7600 6x4 Conv. Cab. TRA: GVWR (min, lbs): 52,000; Engine: Intl MaxxForce 11; 10.5L Diesel, EPA 10, 330 Hp / 1250 lb-ft; Transmission: Fuller FR-11210C 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Meritor MFS-12-143A) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 179	\$79,093.00
International	F21	8600 4x2 Conv. Cab Tractor, SRA (stationary fifth): GVWR (min, lbs): 32,000 (70K GCW); Engine: MaxxForce 11; 10.5L Diesel, EPA 10, 330 Hp / 1250 lb-ft; Transmission: Fuller FR-12210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Hendrickson Steertek) / Rear: 23,000 (Meritor MS-21-14X-4DFR); Wheelbase (min, inches): 136	\$72,021.00
International	F22	8600 6x4 Conv. Cab Tractor, TRA (stationary fifth): GVWR (min, lbs): 52,000 (90K GCW); Engine: MaxxForce 11; 10.5L Diesel, EPA 10, 330 Hp / 1250 lb-ft; Transmission: Fuller FR-12210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Meritor MFS-12-122A) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 171	\$76,186.00

International	F23	ProStar 113 6x4 Conv. Cab Tractor, TRA (stationary fifth): GVWR (min, lbs): 52,000 (90K GCW); Engine: MaxxFoer 11; 10.5L Diesel, EPA 10, 330 Hp / 1250 lb-ft; Transmission: Fuller FR-14210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Hendrickson Steertek) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 179, 113 BBC	\$81,694.00
International	F24	ProStar 122 6x4 Conv. Cab Tractor, SBFA, TRA (stationary fifth): GVWR (min, lbs): 52,000 (90K GCW); Engine: MaxxFoer 13; 12.4L Diesel, EPA 10, 410 Hp / 1450 lb-ft; Transmission: Fuller FR-11210B 10-spd manual; Axles / GAWR (lbs): Front: 12,000 (Hendrickson Steertek) / Rear: 40,000 (Meritor RT-40-145); Wheelbase (min, inches): 179, 122 BBC	\$83,558.00

A CONTRACT BETWEEN
HOUSTON-GALVESTON AREA COUNCIL
Houston, Texas
AND
ROMCO EQUIPMENT CO.
Dallas, Texas

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 120, Houston, Texas 77027, AND, **ROMCO Equipment Co.**, hereinafter referred to as the **CONTRACTOR**, having its principal place of business at 5151 Cash Road, Dallas, Texas 75247-5805.

ARTICLE 1: **SCOPE OF SERVICES**

The parties have entered into a **Street Maintenance Equipment Contract** to become effective as of **October 1, 2010**, and to continue through **September 30, 2012** (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 **Street Maintenance Equipment** offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell **Street Maintenance Equipment** 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: **SM10-10**, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: **SM10-10**, 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, proposer or contractor, which are not within bidder's/ proposer'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

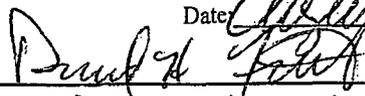
Attest for Houston-Galveston Area Council, Houston, Texas:



Deidre Vick, Director of Public Services

Date: August 31, 2010

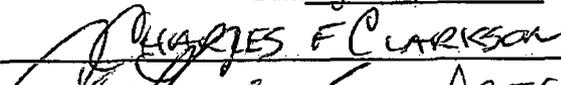
Signed for ROMCO Equipment Co. Dallas, Texas:



Printed Name & Title: DAVID H. FITCH VP Sales

Date: 8-24, 2010

Attest for ROMCO Equipment Co. Dallas, Texas:



Printed Name & Title: CHARLES F. CLARKSON PRES.

Date: 8-20, 2010

Attachment A
ROMCO Equipment Co.
Street Maintenance Equipment
Contract No. SM10-10

Product Code	Description	Price
Q208	Concrete Paver: Gomaco, 3200	\$135,446.00
Q209	Concrete Paver: Gomaco, 3600	\$183,512.00
Q210	Concrete Paver: Gomaco, Commander III	\$249,128.00
R211	Miscellaneous: Gomaco, C450 Concrete Finisher	\$63,720.00
A445	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD25D	\$42,461.00
A446	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD25F	\$46,443.00
A447	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD45D	\$63,212.00
A448	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD45F	\$67,307.00
A449	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD70D	\$75,727.00
A450	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD70F	\$79,761.00
A451	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD77DA	\$98,166.00
A452	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD77DX	\$84,881.00
A453	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD77F	\$89,078.00
A454	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD100D	\$103,034.00
A455	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD100F	\$107,995.00
A456	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD105DX	\$111,743.00
A457	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD105F	\$115,988.00
A458	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD116DX	\$115,737.00
A459	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD116F	\$119,749.00
A460	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD160DX	\$163,824.00
A461	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD160F	\$173,174.00
A462	Single Smooth Drum Vibratory Roller, : Volvo Construction, SD200DX	\$181,253.00
A463	Single Padfoot Drum Vibratory Roller, : Volvo Construction, SD200F	\$196,010.00
B464	Tandem Drum Vibratory Roller: Volvo Construction, DD14S	\$26,091.00
B465	Tandem Drum Vibratory Roller: Volvo Construction, DD16	\$29,586.00
B466	Tandem Drum Vibratory Roller: Volvo Construction, DD22	\$31,612.00
B467	Tandem Drum Vibratory Roller: Volvo Construction, DD24	\$32,695.00
B468	Tandem Drum Vibratory Roller: Volvo Construction, DD29	\$38,064.00
B469	Tandem Drum Vibratory Roller: Volvo Construction, DD31HF	\$41,778.00
B470	Tandem Drum Vibratory Roller: Volvo Construction, DD38HF	\$50,822.00
B471	Tandem Drum Vibratory Roller: Volvo Construction, DD70	\$95,440.00
B472	Tandem Drum Vibratory Roller: Volvo Construction, DD70HF	\$100,527.00
B473	Tandem Drum Vibratory Roller: Volvo Construction, DD90	\$108,368.00
B474	Tandem Drum Vibratory Roller: Volvo Construction, DD90HF	\$115,927.00
B475	Tandem Drum Vibratory Roller: Volvo Construction, DD112HF	\$123,232.00
B476	Tandem Drum Vibratory Roller: Volvo Construction, DD118HF	\$135,257.00
B477	Tandem Drum Vibratory Roller: Volvo Construction, DD118HFA	\$141,967.00
B478	Tandem Drum Vibratory Roller: Volvo Construction, DD132HF	\$142,302.00
B479	Tandem Drum Vibratory Roller: Volvo Construction, DD138HF	\$158,262.00
B480	Tandem Drum Vibratory Roller: Volvo Construction, DD138HFA	\$166,128.00

C481	Combination Roller: Volvo Construction, Model CR24	\$43,598.00
C482	Combination Roller: Volvo Construction, Model CR30	\$53,381.00
E483	Pneumatic Roller: Volvo Construction, PT125R	\$63,245.00
E484	Pneumatic Roller: Volvo Construction, PT240R	\$111,487.00
N485	Asphalt Milling/Planing/Reclaiming Machine: Volvo MW500	\$152,564.00
N486	Asphalt Milling/Planing/Reclaiming Machine: Volvo MT2000	\$465,270.00
Q487	Paver: Volvo Construction: PF2181	\$182,011.00
Q488	Paver: Volvo Construction: PF6160	\$220,859.00
Q489	Paver: Volvo Construction: PF6170	\$227,702.00
Q490	Paver: Volvo Construction: PF4410	\$208,131.00
Q491	Paver: Volvo Construction: PF6110	\$243,002.00

A CONTRACT BETWEEN
HOUSTON-GALVESTON AREA COUNCIL
Houston, Texas
AND
Volvo Construction Equipment & Services
Houston, Texas

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 120, Houston, Texas 77027, AND, **Volvo Construction Equipment & Services** hereinafter referred to as the **CONTRACTOR**, having its principal place of business at 2210 McAllister, Houston, Texas 77092.

ARTICLE 1: SCOPE OF SERVICES

The parties have entered into a **Portable Construction & Maintenance Equipment** Contract to become effective as of February 1, 2009, and to continue through January 31, 2011 (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 **Portable Construction & Maintenance Equipment** offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell **Portable Construction & Maintenance Equipment** 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: **CM02-09**, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: **CM02-09**, 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, 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.

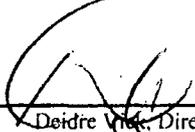
IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives.

Signed for **Houston-Galveston**
Area Council, Houston, Texas:



Jack Steele, Executive Director

Attest for **Houston-Galveston**
Area Council, Houston, Texas:



Deidre Vitek, Director of Public Services

Date: JANUARY 9 2009

Signed for **Volvo Construction Equipment & Services**
Houston, Texas:



Printed Name & Title: CHRISTIAN B. BANES VP, BRANCH MGR.

Date: DECEMBER 22 2008

Attest for **Volvo Construction Equipment & Services**
Houston, Texas:



Printed Name & Title: DAN JONES SALES

Date: DEC 29 2008

Attachment A
 Volvo Construction Equipment & Services
 Portable Construction & Maintenance Equipment
 Contract No. CM02-09

Ingersoll-Rand		
A. Portable Air Compressors		
AB01	P65WK, Trailer Mounted Air Compressor, 65 CFM, 100 PSI	\$8,103.00
AB02	P90WIR, Trailer Mounted Air Compressor, 90 CFM, 100 PSI	\$9,492.00
AB03	P135WIR, Trailer Mounted Air Compressor, 135 CFM, 100 PSI	\$10,880.00
AB04	P185WIR, Trailer Mounted Air Compressor, 185 CFM, 100 PSI	\$11,864.00
AB05	P185WJD, Trailer Mounted Air Compressor, 185 CFM, 100 PSI	\$12,408.00
AB06	XP185WIR, Trailer Mounted Air Compressor, 185 CFM, 125 PSI	\$12,288.00
AB07	XP185WJD, Trailer Mounted Air Compressor, 185 CFM, 125 PSI	\$12,915.00
AB08	Airsource, Trailer Mounted Air Compressor, 160 CFM, 100 PSI	\$9,441.00
AB09	Airsource Plus, Trailer Mounted Air Compressor, 185 CFM, 100 PSI	\$11,050.00
AB10	P250WJD, Trailer Mounted Air Compressor, 250 CFM, 100 PSI	\$16,647.00
AB11	P260WIR, Trailer Mounted Air Compressor, 260 CFM, 100 PSI	\$16,332.00
AB12	HP375WIR, Trailer Mounted Air Compressor, 375 CFM, 150 PSI	\$28,702.00
AB13	XP375WIR, Trailer Mounted Air Compressor, 375 CFM, 125 PSI	\$26,630.00
AB14	P425WIR, Trailer Mounted Air Compressor, 425 CFM, 100 PSI	\$29,332.00
AB15	HP450WIR, Trailer Mounted Air Compressor, 450 CFM, 150 PSI	\$36,774.00
AB16	P600WIR, Trailer Mounted Air Compressor, 600 CFM, 100 PSI	\$36,837.00
AB17	HP675WCU, Trailer Mounted Air Compressor, 675 CFM, 150 PSI	\$49,318.00
AB18	HP750WCU, Trailer Mounted Air Compressor, 750 CFM, 150 PSI	\$52,671.00
AB19	XP750WCU, Trailer Mounted Air Compressor, 750 CFM, 125 PSI	\$49,318.00
AB20	XP825WCU, Trailer Mounted Air Compressor, 825 CFM, 125 PSI	\$52,671.00
AB21	HP915WCU, Trailer Mounted Air Compressor, 915 CFM, 150 PSI	\$60,817.00
AB22	VHP400WIR, Trailer Mounted Air Compressor, 400 CFM, 200 PSI	\$36,653.00
AB23	VHP750WCAT, Trailer Mounted Air Compressor, 750 CFM, 200 PSI	\$60,817.00
AB24	MHP825WCAT, Trailer Mounted Air Compressor, 825 CFM, 175 PSI	\$61,737.00
AB25	XP1000WCU, Trailer Mounted Air Compressor, 1000 CFM, 125 PSI	\$60,817.00
AB26	HP1600WCU, Trailer Mounted Air Compressor, 1600 CFM, 150 PSI	\$119,380.00
AB27	P90WIRU, Skid Mounted Air Compressor, 90 CFM, 100 PSI	\$9,492.00
AB28	P185WJDU, Skid Mounted Air Compressor, 185 CFM, 100 PSI	\$13,092.00
AB29	P250WJDU, Skid Mounted Air Compressor, 250 CFM, 100 PSI	\$14,799.00
B. Light Towers		
BC01	L6 Portable Light Tower, 6 KW output, 120/240 single phase 60 Hz., Kubota D905BG, 30 gallon fuel capacity, 10.5 bhp, 1800 rpm, 48 hr. run time (100% Load)	\$9,276.00
BC02	L8 Portable Light Tower, 8 KW output, Kubota D1105BG, 13.6 bhp, 1800 rpm, 40 hr. run time (100% Load)	\$11,859.00

BC03	LIGHTSOURCE Portable Light Tower, 6 KW output, 120/240 single phase 60 Hz., Kubota D905BG, 30 gallon fuel capacity, 10.5 bhp, 1800 rpm, 68 hr. run time (100% Load)	\$7,603.00
BC04	L20 Portable Light Towr, 20kW output.	\$15,717.00

10/31/2011 10:00 AM
 10/31/2011 10:00 AM
 10/31/2011 10:00 AM

A CONTRACT BETWEEN
HOUSTON-GALVESTON AREA COUNCIL
Houston, Texas
AND
VOLVO CONSTRUCTION EQUIPMENT & SERVICES
Lakeside, California

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 120, Houston, Texas 77027, AND, **Volvo Construction Equipment & Services**, hereinafter referred to as the **CONTRACTOR**, having its principal place of business at 12345 Maplevue Street, Lakeside, California 92040.

ARTICLE 1: **SCOPE OF SERVICES**

The parties have entered into a **Earth Moving & Construction Equipment Contract** to become effective as of June 1, 2009, and to continue through May 31, 2011 (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 **Earth Moving & Construction Equipment** offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell **Earth Moving & Construction Equipment** 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: **EM06-09**, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: **EM06-09**, 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.*

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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.

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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
Jack Steele, Executive Director

Attest for Houston-Galveston Area Council, Houston, Texas: Deidre Vick
Deidre Vick, Director of Public Services

Date: May 19, 2009

Signed for Volvo Construction Equipment & Services Lakeside, California: [Signature]
Printed Name & Title: _____

Date: 5/13, 2009

Attest for Volvo Construction Equipment & Services Lakeside, California: Brandy VanDeWalle
Printed Name & Title: _____

Date: 5/14/2009, 2009

Attachment A
Volvo Construction Equipment & Services
Earth Moving & Construction Equipment
Contract No. EM06-09

Product Code	Description	Base Bid Price
	Volvo	
	A. Excavators - Hydraulic, Standard & Mini	
A814	Model EC15B XTV Compact Excavator : Operating Weight: 3,534 Lbs, Digging Depth 7'3", Lift Capacity: 385 Lbs @ 10' 360 degrees	\$26,508.00
A815	Model EC20B XTV Compact Excavator : Operating Weight: 3,989 Lbs, Digging Depth: 8'5", Lift Capacity: 717 Lbs @ 9'10" 360 degrees	\$30,153.00
A817	Model EC27C Compact Excavator : Operating Weight: 6,620Lbs,	\$27,325.00
A818	Model EC35C Compact Excavator : Operating Weight: 7,546# to 10,406 Lbs, Digging Depth: 10'5", Breakout Force 5,564# to 7,691#	\$39,637.00
A819	Model EC55C Compact Excavator : Operating weight: 12,125 Lbs, Digging Depth: 12'4", Breakout force of 9,302#	\$51,141.00
A820	Model ECR 28 Zero Tail Swing Compact Excavator: Operating Weight 6,012#; 7'9" Dig depth; 18 H.P. & 4,429# Breakout Force	\$32,681.00
A821	Model ECR 38 Zero Tail Swing Compact Excavator: Operating Weight 7,355#; 8'10" Dig depth; 27 H.P. & 6,463# Breakout Force	\$38,968.00
A822	Model ECR 48C Zero Tail Swing Compact Excavator: Operating Weight 7,546# to 10,406#	\$44,152.00
A823	Model ECR 58 Zero Tail Swing Compact Excavator: Operating Weight 12,963#; 11'8" Dig depth; 51 H.P. & 8,768# Breakout Force	\$49,848.00
A824	Model ECR 88 Zero Tail Swing Compact Excavator: Operating Weight of 17,879; 59H.P.; 13'8" Dig Depth; & 12,589# Breakout Force	\$74,626.00
A825	Model EC140CL Excavator : Operating Weight: 29,410 Lbs; 92 H.P.; 18'2" Digging depth	\$104,609.00
A826	Model ECR145CL Zero Tail Swing Excavator: Operating Weight: 32,540 Lbs; 92 H.P.; 18'2" Digging depth	\$112,676.00
A827	Model EC160CL Excavator : Operating Weight: 40,790 Lbs; 116 H.P.; 19'10" Digging depth	\$118,115.00
A828	Model EC210CL Excavator : Operating Weight: 46,920 Lbs; 147H.P.; Digging Depth: 22' 1"	\$144,705.00
A829	Model ECR235CL Zero Tail Swing Excavator: Operating Weight: 52,470 Lbs; 147 H.P.; 22'2" Digging depth	\$159,751.00
A830	Model EC240CL Excavator : Operating Weight: 55,830 Lbs; 168 H.P.; Digging Depth: 22' 11"	\$178,615.00
A831	Model EC290CL Excavator : Operating Weight: 64,340 Lbs; 192 H.P.; Digging Depth: 24'0"	\$197,351.00
A832	Model ECR305CL Zero Tail Swing Excavator: Operating Weight: 67,120 Lbs; 192 H.P.; Digging Depth: 24'0"	\$197,457.00
A833	Model EC330CL Excavator : Operating Weight: 78,450 Lbs; 247 H.P.; Digging Depth: 24' 7"	\$230,702.00
A834	Model EC360CL Excavator : Operating Weight: 84,670 Lbs; 247 H.P.; Digging Depth: 24' 7"	\$251,866.00
A835	Model EC460CL Excavator : 27' 7" Operating Weight: 100,550 Lbs; 315 H.P. Digging Depth: 25' 3"	\$344,188.00
A836	Model EC700CL Excavator: Operating Weight 150,600 Lbs; 424 H.P.; Digging Depth 27'7"	\$600,017.00

A837	Model EW160C Wheeled Excavator : Operating Weight: 36,160 Lbs; 142 H.P. Digging Depth: 20'4"	\$148,497.00
A838	Model EW180C Wheeled Excavator : Operating Weight: 39,680 Lbs; 152 H.P. Digging Depth: 20'4"	\$169,653.00
A839	Model EW210C Wheeled Excavator: Operating Weight: 43,870 Lbs; 161 H.P. Digging Depth: 21'9"	\$228,149.00
A840	Model FC2421C Excavator Tracked Forestry Carrier: Operating Weight 58,090 lbs; 165 H.P.	\$201,132.00
A841	Model FC2924C Excavator Tracked Forestry Carrier: Operating Weight 71,420 lbs; 185 H.P.	\$236,437.00
A842	Model FC3329C Excavator Tracked Forestry Carrier: Operating Weight 82,630; 205 H.P.	\$256,507.00
C. Motor Graders		
C843	Model G930 Motor Grader : Operating Weight: 34,291 Lbs; 155-195 Vhp	\$139,713.00
C844	Model G940 Motor Grader : Operating Weight: 35,179 lbs; 175-215 Vhp	\$156,194.00
C845	Model G946 AWD Motor Grader: Operating Weight: 36,705 lbs; 195-235 Vhp	\$187,024.00
C846	Model G960 Motor Grader : Operating Weight: 36,800 lbs; 195-235 Vhp	\$178,457.00
C847	Model G970 Motor Grader : Operating Weight: 39,026 lbs; 210-250 Vhp	\$203,299.00
C848	Model G976 AWD Motor Grader: Operating Weight: 40,553 lbs; 210-250 Vhp	\$227,665.00
C849	Model G990 Motor Grader: Operating Weight: 46,282 lbs; 225-265 Vhp	\$270,862.00
D. Loaders, Wheel & Track		
D850	Model L20B Compact Loader : Operating Weight: 10,030 Lbs, 56 Hp, w/ Canopy	\$45,971.00
D851	Model L25B Compact Loader: Operating Weight: 10,715 Lbs, 62 Hp, w/ Canopy	\$49,874.00
D852	Model L30B Compact Loader: Operating Weight: 11,003 Lbs, 58 Hp, w/ Canopy	\$55,351.00
D853	Model L35B Compact Loader : Operating Weight: 12,790 Lbs, 70 Hp w/ Cab	\$60,134.00
D854	Model L40B Compact Loader : Operating Weight: 17,200 Lbs, 86 Hp w/ Cab	\$75,629.00
D855	Model L45F Compact Loader: 100 Net H.P.; 2 cu yd GP Bucket; Operating Weight of 19,070#	\$83,463.00
D856	Model L50F Compact Loader: 117 Net H.P.; 2.4 cu yd GP Bucket; Operating Weight of 20,790#	\$93,090.00
D857	Model L60F Loader: Operating Weight: 26,440 Lbs, 154 Hp; 2.7 cy Bkt.	\$111,510.00
D858	Model L70F Loader : Operating Weight: 29,020 Lbs, 168 Hp w/ Cab, 3.0 cy Bkt.	\$121,429.00
D859	Model L90F Loader : Operating Weight: 33,440 Lbs, 172 Hp w/ Cab, 3.5 cy Bkt.	\$140,282.00
D860	Model L110F Loader : Operating Weight: 40,340 Lbs, 230 Hp w/ Cab, 4.1 cy Bkt.	\$173,901.00
D861	Model L120F Loader : Operating Weight: 42,340 Lbs, 243 Hp w/ Cab, 4.4 cy Bkt.	\$191,376.00
D862	Model L150F Loader : Operating Weight: 56,320 Lbs, 282 Hp w/ Cab, 5.75 cy Bkt.	\$251,850.00
D863	Model L180F Loader : Operating Weight: 63,930 Lbs, 315 Hp w/ Cab, 6.3 cy Bkt.	\$290,141.00
D864	Model L180FHL Hi-Lift: Operating Weight 72,750# 315 H.P.	\$410,139.00
D865	Model L220F Loader : Operating Weight: 72,750 Lbs, 351 Hp w/ Cab, 7.2 cy Bkt.	\$324,401.00

D866	Model L350F Loader: Operating Weight: 115,530 Lbs, 532 Hp w/ Cab, 10.0 cy Bkt.	\$566,080.00
E. Skid - Steers		
E867	Model MC60B Skid Steer Loader : Operating Weight: 5,624 Lbs; Operating Capacity 1,400 Lbs; 45 Hp	\$21,495.00
E868	Model MC70B Skid Steer Loader : Operating Weight: 5,801 Lbs; Operating Capacity 1,500 Lbs; 53 Hp	\$22,544.00
E869	Model MC80B Skid Steer Loader : Operating Weight: 6,824 Lbs; Operating Capacity 1,850 Lbs; 65 Hp	\$23,724.00
E870	Model MC90B Skid Steer Loader; Operating Weight: 6,985 Lbs; Operating Capacity 2,000 Lbs; 80 Hp	\$25,118.00
E871	Model MC110B Skid Steer Loader: Operating Weight 7,480 Lbs; Operating Capacity 2,400 Lbs; 80 Hp	\$28,421.00
F. Backhoe Loaders		
F872	Model BL60 Backhoe Loader : 83 Net Hp, Operating Weight: 16,564 Lbs, B/H Digging Depth: 14' 9", Loader Bkt. 1.3 cy	\$47,263.00
F873	Model BL70 Backhoe Loader : 90 Net Hp, Operating weight: 17,800 Lbs, B/H Digging Depth: 14' 9", Loader Bkt. 1.3 cy	\$56,156.00
H. Scrapers		
H874	Model T450D Scraper Hauler: Operating Weight 53,350#; 414 H.P. W/ Two 18 cu yd Scrapers	\$501,318.00
I. Trucks, Off - Highway		
1875	Model A25E 4X4 Articulated Dump Truck : Operating Weight: 42,924 Lbs, Capacity: 17.0 yards; 299 Hp	\$281,014.00
1876	Model A25E 6X6 Articulated Dump Truck : Operating Weight: 47,521 Lbs, Capacity: 19.6 yards; 299 Hp	\$294,548.00
1877	Model A30E Articulated Dump Truck : 6x6, Operating Weight: 50,838 Lbs, Capacity: 22.9 yards; 336 Hp	\$350,091.00
1878	Model A35E Articulated Dump Truck : 6x6, Operating Weight: 61,950 Lbs, Capacity: 26.8 yards; 414 Hp	\$436,310.00
1879	Model A40E Articulated Dump Truck : 6x6, Operating Weight: 66,580 Lbs, Capacity: 31.4 yards; 464 Hp	\$479,977.00