

Town of Nags Head
Public Works Contract Review Cover Form

Your review and comments are needed no later than:

January 1, 2015

Contract Name : Sanitation Dumpster Truck Contract Originator: Karen Heagy

- New contract
 Change Order
 Task Order
 Service Contract
 Equipment Contract
 Engineering Contract
 Construction Contract

Reviewer	Approval Date	Revisions to be made
Finance Director	12-19-14	Contingent upon board approval of cooperative purchasing membership on 1-7-15
Town Clerk	12-23-14	No additional comments.
Town Attorney	11-26-14	None



Robert C. Edwards
Mayor

M. Renée Cahoon
Commissioner

Susie Walters
Mayor Pro Tem

Town of Nags Head
Post Office Box 99

John Ratzenberger
Commissioner

Cliff Ogburn
Town Manager

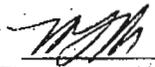
Nags Head, North Carolina 27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

Marvin Demers
Commissioner

NORTH CAROLINA
DARE COUNTY

PURCHASE ORDER # 15-01764

**THIS CONTRACT IS NOT VALID WITHOUT THE REQUIRED ACCOMPANYING/
CORRESPONDING PURCHASE ORDER**


(SELLER initials)

THIS CONTRACT is made and entered into this the 6th day of February 2015, by and between the TOWN OF NAGS HEAD, a public body corporate of the State of North Carolina, (hereinafter referred to as "the TOWN") party of the first part and Houston Freightliner, Inc. 9550 Loop E FWY, Houston, TX 77029, (hereinafter referred to as "SELLER"), party of the second part.

1. ITEMS TO BE PROVIDED AND AGREED CHARGES

SELLER hereby agrees as follows:

To furnish one New 2016 Freightliner 114SD Dumpster Truck, per HGAACBuy Contract pricing worksheet Contract No. HT06-14, dated 2/2/2015 (copy attached) in the amount of \$183,855.00 (One Hundred Eighty Three Thousand Eight Hundred Fifty Five Dollars and no cents), exclusive of sales tax. This item is hereinafter referred to as "the Equipment."

It is mutually agreed by and between the TOWN and SELLER that SELLER will provide the equipment required under this contract no later than December 31, 2015 with time being of the essence.

2. WARRANTIES

The Town agrees to take delivery of the Equipment at SELLER's place of business, but shall not be deemed to have accepted the Equipment until the Town has had a reasonable opportunity to inspect and operate the Equipment. SELLER hereby expressly warrants and represents that the Equipment provided shall be as represented to the Town and shall conform to the description given to the Town; shall be fit for the Town's use and purposes; shall meet the

Town's needs and requirements; and shall be merchantable. SELLER further represents that it has full right and title to the Equipment **without lien or encumbrance**, and there are no restrictions or limitations on SELLER's right to transfer title and ownership to the Equipment to the Town. SELLER shall be responsible for all repair and replacement as necessary in order for the Equipment to be as warranted.

3. TERM OF CONTRACT

The term of this CONTRACT for EQUIPMENT is from February 6, 2015 until the obligations of the CONTRACT are fulfilled and accepted by the TOWN pursuant to its terms or until the CONTRACT is terminated pursuant to its terms. Either party may nonetheless cancel this CONTRACT on thirty (30) days written notice to the other party by certified mail or personal delivery. This CONTRACT is subject to the availability of funds to purchase the specified EQUIPMENT and may be terminated at any time if such funds become unavailable.

Notwithstanding provisions of this Section 3 to the contrary, the following shall survive the termination of this CONTRACT: the provisions of Section 2; the provisions of Section 6 regarding indemnity; and the provisions of Section 10.

4. PAYMENT TO SELLER

The TOWN agrees to pay the price specified for the Equipment in accordance with this contract. Unless otherwise specified, the SELLER shall submit an itemized invoice to the TOWN within thirty (30) days from the Town's receipt of the Equipment. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice.

5. INDEPENDENT CONTRACTOR

Both the TOWN and the SELLER agree that the SELLER shall act as an independent contractor and shall not represent itself as an agent or employee of the TOWN for any purpose in the performance of the SELLER'S duties under this contract. Accordingly, the SELLER shall be responsible for payment of all Federal, State and local taxes arising out of the SELLER'S activities in accordance with this contract, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as required.

In performing its obligations under this CONTRACT, the SELLER is acting as an independent contractor and shall perform its obligations under this CONTRACT in accordance with currently approved methods and practice in the SELLER'S professional capacity and in accordance with the standards of applicable professional organizations and licensing agencies.

6. INSURANCE AND INDEMNITY

The SELLER shall indemnify and save harmless the TOWN, its agents and employees from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the TOWN or which the TOWN must pay and incur by reason of or in any manner resulting from injury, loss or damage to persons or property resulting from

negligent performance of or failure to perform any of its obligations under the terms of this CONTRACT.

The SELLER shall be fully responsible to the TOWN for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by it, as the SELLER is for the acts and omissions of persons directly employed by it.

In addition, the SELLER shall comply with the North Carolina Worker's Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event the SELLER is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, the SELLER shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents during the performance of its obligations under this CONTRACT.

The SELLER agrees to furnish the TOWN proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

The SELLER upon request by the TOWN shall furnish a Certificate of Insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the TOWN verifying the existence of any insurance coverage required by the TOWN prior to execution of this contract. The Certificate will provide for sixty (60) days advance notice in the event of termination or cancellation of coverage.

7. HEALTH AND SAFETY

The SELLER shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The SELLER shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees from the work and other persons who may be affected thereby.

8. NON-DISCRIMINATION IN EMPLOYMENT

The SELLER shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The SELLER shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, sex, race, creed, or national origin. In the event the SELLER is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be cancelled, terminated or suspended in whole or in part by the TOWN, and the SELLER may be declared ineligible for further contracts.

9. E-VERIFICATION OF EMPLOYEES

The SELLER represents and warrants that it has ensured and will ensure for itself and each subcontractor that it uses to perform obligations under this CONTRACT, that either:

- (1) The SELLER or subcontractor employs less than 25 employees; or

- (2) The SELLER or subcontractor: (a) employs 25 or more employees who are employed for 9 months or more during a 12-consecutive-month period; and (b) has used the E-Verify program, which program is operated by the United States Department of Homeland Security and is defined in N.C. Gen. Stat. § 64-25 (5), to verify the work authorization of each employee.

10. GOVERNING LAW

This contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this contract shall be brought in the General Court of Justice of the State of North Carolina or in the Federal District Court for the Eastern District of North Carolina.

11. OTHER PROVISIONS

This Contract is subject to such additional provisions as are set forth in any addendum executed separately by each party and attached hereto.

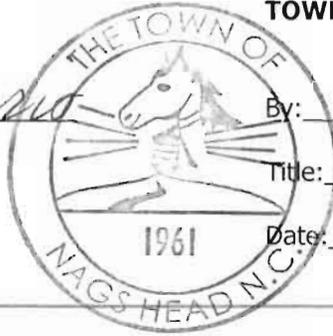
12. CONTRACT DOCUMENTS/AMENDMENTS

This document together with the purchase order and any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto. In the event of any conflict between this contract and any attached documents, the contract language will prevail.

13. SIGNATURES

Both the TOWN and the CONTRACTOR agree to the above contract.

TOWN OF NAGS HEAD



Carolyn K. Morris
Witnessed or Attested By:

By: *C. Crook*
Title: Town Manager
Date: 2-18-15

[Signature]
Witnessed or Attested By:

CONTRACTOR



Corporate Seal:

By: *[Signature]*
Printed Name: Michael F. McCarty
Title: Account Manager
Date: 2-16-2015

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

[Signature] 2-18-15
Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

[Signature]
TOWN ATTORNEY

Contingent upon board approval of cooperative purchasing membership on 1-7-15



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract No.:

HT06-14

Date Prepared:

2/2/2015

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Nags Head	Contractor:	Houston Freightliner, Inc
Contact Person:	Ralph Barile	Prepared By:	Michael McCarthy
Phone:	252-441-1122	Phone:	713-580-8122
Fax:		Fax:	713-676-1603
Email:		Email:	Mike.McCarthy@STRHouston.com

Product Code:	D1	Description:	2016 Freightliner 114SD
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A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 84267

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

Description	Cost	Description	Cost
Detroit DD13 350 HP	N/C	Air Conditoner	850
Allison 4500 RDS Transmission	16958	Air Cab Mounts	118
14700 LB Front Axle	678	Air Ride Driver Seat	175
		AM/FM Radio	230
Driver Controlled Differential Lock Both Axles	905		
100 Gallon LH Fuel Tank	375		
		Pak Mor HLR33 Commercial Side Loader	76700
11/32x3.5x10 15/16 Frame	760		
1/4" Frame Liner	1058		
RH Outboard Under Step Exhaust with Vertical Stack	629		
		Subtotal From Additional Sheet(s):	
	0	Subtotal B:	99436

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

Description	Cost	Description	Cost
		Subtotal From Additional Sheet(s):	
		Subtotal C:	0

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 0%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	183703	=	Subtotal D:	183703
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E. H-GAC Order Processing Charge (Amount Per Current Policy) Subtotal E: 1500

F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Description	Cost	Description	Cost
One Year Towing Warranty	200		
Discount	-1548		
		Subtotal F:	-1348

Delivery Date: **G. Total Purchase Price (D+E+F):** 183855



TOWN OF NAGS HEAD
PO BOX 99
5401 SOUTH CROATAN HIGHWAY
NAGS HEAD, NC 27959
Phone: (252)441-5508

Purchase Order/Voucher

**THIS NUMBER MUST APPEAR ON ALL INVOICES,
 PACKING LISTS, CORRESPONDENCE, ETC.**

NO. 15-01764

SHIP TO

PUBLIC WORKS % KAREN HEAGY
 TOWN OF NAGS HEAD
 2200 LARK AVE
 NAGS HEAD, NC 27959

VENDOR

Vendor #: HOUST005

Houston Freightliner
 9550 Loop E FWY
 Houston, TX 77029

ORDER DATE: 01/09/15
 DELIVERY DATE: 11/24/14
 STATE CONTRACT:
 VENDOR ACCT NUM:
 VENDOR PHONE #: (713) 580-8122
 VENDOR FAX #:
 REQUISITION #: R1500492

MAIL INVOICE TO:

ATTN: ACCOUNTS PAYABLE
P.O BOX 99
NAGS HEAD, NC 27959

QUANTITY	DESCRIPTION	ACCOUNT NO	UNIT PRICE	TOTAL
1.00	new Dumpster truck	10-580-5-5774-00 CAPITAL OUTLAY EQUIPMENT	182,593.0000	182,593.00
1.00	Do not fax po inc in cost for 2016	10-580-5-5774-00 CAPITAL OUTLAY EQUIPMENT	1,262.0000	1,262.00
			TOTAL	=====
				183,855.00

E-Verify Compliance Assurance by Vendor/Contractor: By accepting this purchase order from Town of Nags Head, I verify that I understand that E-Verify program operated by the United States Department of Homeland Security and other federal agencies used to verify the work authorization of newly hired employees pursuant to federal law. Furthermore, I confirm that I am aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes, which requires that the Contractor participate in E-Verify if it has at least 25 qualified employees. To the best of my knowledge, any subcontractors employed by me as part of this contract are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes.

**THIS INSTRUMENT HAS BEEN PREAUDITED IN THE MANNER REQUIRED BY THE
 LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT.**

 FINANCE OFFICER

 PURCHASING AGENT

Please contact the Town of Nags Head if the prices indicated are not correct. The Town of Nags Head will not be responsible for incorrect pricing after the Purchase Order is received by the vendor for purchasing.



INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING

ILC No.: 15-4372 Permanent Number assigned by H-GAC

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and * The Town of Nags Head, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at * 5401 S Croatan Hwy, Nags Head NC 27959

WITNESSETH

WHEREAS, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on * 1/7/2015 (Date), and that it desires to contract with H-GAC on the terms set forth below;

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

ARTICLE 1: LEGAL AUTHORITY

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

ARTICLE 3: WHOLE AGREEMENT

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

The period of this Contract shall be for the balance of the fiscal year of the End User, which began * 7/1/2014 and ends * 6/30/15. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

ARTICLE 5: SCOPE OF SERVICES

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through HGACBuy.com and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

ARTICLE 6: PAYMENTS

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC's contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

ARTICLE 7: CHANGES AND AMENDMENTS

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC's contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

ARTICLE 9: 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 10: FORCE MAJEURE

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

ARTICLE 11: VENUE

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

* Town of Nags Head
Name of End User (local government, agency, or non-profit corporation)

* P. O. Box 99
Mailing Address

* Nags Head, NC 27959
City State ZIP Code

*By: Robert C. Edwards
Signature of chief elected or appointed official

* Robert C. Edwards, Mayor
Typed Name & Title of Signatory

1/7/2015
Date

Houston-Galveston Area Council
3555 Timmons Lane, Suite 120, Houston, TX 77027

By: [Signature]
Executive Director

Attest: [Signature]
Manager

Date: JANUARY 15, 2015



*Denotes required fields