



COMMERCIAL WASTE REMOVAL AND RECYCLING SERVICES REQUEST FOR PROPOSALS

ISSUE DATE: April 7, 2023

DUE DATE: **2:00 P.M. on May 23, 2023** ("Submission Deadline")

INSTRUCTIONS: Proposers are asked to submit five (5) paper copies and one (1) electronic copy of their Proposal on a flash drive. Submittals must be delivered in a sealed envelope in person, via mail or courier. All electronic files should include the name of the company as the first part of the file name. Diversity participation information provided by Proposer should be enclosed in a separately-sealed envelope (and in a separate folder on the flash drive) labelled "Diversity". Submittals received by email, fax, or after the Submission Deadline will be rejected.

SUBMIT TO: Houston First Corporation, Attn: Mitch Miszkowski, 701 Avenida de las Americas, Suite 200, Houston, TX 77010. Please write "**Waste & Recycling RFP**" clearly on the outside of the sealed package.

CONTACT INFO: Any questions concerning this RFP must be submitted by email to bids@houstonfirst.com no later than **10:00 a.m. on May 9, 2023**. Material questions received will be answered collectively, rather than individually, in a Letter of Clarification made available online at www.houstonfirst.com/do-business. Questions may be edited or combined for clarity or length at the discretion of HFC.

OVERVIEW

Houston First Corporation ("HFC") requests proposals from experienced, highly-qualified commercial waste removal and recycling service providers capable of providing, on an as-needed basis at its facilities, (a) solid waste and recycling containers and compactors; (b) collection, transportation, and disposal of non-hazardous solid waste; and (c) collection, transportation, and recycling of paper, corrugated containers, metal cans, wooden pallets, and plastic in an environmentally-responsible manner. The proposer selected will be required to provide a dedicated, account-specific manager to address service and billing issues; regular written reports (including waste stream and recycling audits); and advising HFC on waste removal and recycling matters.

Facilities to be serviced include the George R. Brown Convention Center, Partnership Tower, Wortham Theater Center, Jones Hall, Miller Outdoor Theatre, and S. Jensen Theater (known commonly as Talento Bilingue de Houston):

Facility Name	Dumpsters/Trash Containers	Recycling Containers
George R. Brown Convention Center	Two (2) 30-cu.-yd. compactors with doghouses; two (2) 40-cu.-yd. open-top containers; and six (6) 40-cu.-yd. compactors	Four (4) 40-cu.-yd. compactors
Partnership Tower	One (1) 30-cu.-yd. compactor	n/a
Wortham Theater Center	Four (4) 4-cu.-yd. front-load containers	Eight (8) 95-gal. containers
Jones Hall	Three (3) 2.5 cu. yd. containers; and two (2) 1.5 cu. yd. gondolas	n/a
Miller Outdoor Theatre	Three (3) 6-cu.-yd. front-load containers	One (1) 6-cu.-yd front-load container
S. Jensen Theater	Two (2) 3-cu.-yd. front-load containers	n/a

Monthly service frequencies – estimates only – are provided on the Pricing Form.

BACKGROUND

HFC is a local government corporation created by the City of Houston to facilitate economic growth through the promotion of the greater Houston area and the business of conventions, meetings, tourism, and the arts. HFC is the primary entity responsible for marketing Houston and increasing awareness of its many attractions and amenities.

HFC is responsible for the operation and management of the George R. Brown Convention Center, Avenida Houston, Partnership Tower, Wortham Theater Center, Jones Hall for the Performing Arts, Miller Outdoor Theatre, an array of outdoor properties, and parking facilities that can accommodate nearly 10,000 vehicles.

HFC represents the consolidation of the former City of Houston Convention & Entertainment Facilities Department and the Houston Convention Center Hotel Corporation. The Houston Convention Center Hotel Corporation (now called Houston First Corporation) was organized in 2000. The consolidation with the Convention & Entertainment Facilities Department was effective on July 1, 2011.

PRE-PROPOSAL MEETING

A Pre-Proposal Meeting will be held for the benefit of all prospective Proposers by video teleconference call at **10:00 a.m.** on **May 2, 2023**. Proposers who expect to attend must register in advance by clicking [here](#); further instructions for joining the meeting will be sent to each registrant. Attendance at the Pre-Proposal Meeting is encouraged, but not mandatory.

LETTERS OF CLARIFICATION

Responses to all material questions timely submitted by potential Proposers, as well as revisions incorporated into this solicitation by HFC, if any, will be confirmed collectively in one or more letters posted online at www.houstonfirst.com/do-business (each a “Letter of Clarification”). When issued, each Letter of Clarification will become part of this solicitation and automatically

supersede any previous specifications or provisions in conflict therewith. By submitting their Proposal, Proposers shall be deemed to have reviewed all Letters of Clarification on the website, considered all responses, as well as any revisions, and incorporated them into their submittal. Verbal responses will not otherwise alter the specifications, terms and conditions as stated herein. It is the responsibility of Proposers to monitor the foregoing website and ensure they review any such Letters of Clarification and incorporate them in their Proposal.

PROPOSAL FORMAT

Although HFC prefers substance over form, to be considered responsive, Proposers are asked to include the following information in their proposal:

- a. **Transmittal Letter:** Write a brief letter summarizing Proposer's understanding of the services required and communicate effectively why the Proposer should be selected. The letter must be signed by a person authorized to make representations on behalf of the Proposer and include a direct phone number and email address. Proposers must make a specific, unambiguous statement accepting and agreeing to comply, if selected, with the Commercial Waste Removal and Recycling Services Agreement.
- b. **Profile:** Provide a brief profile of the Proposer, noting its history, strengths and distinguishing skills. Provide three references for whom Proposer has provided waste removal and recycling services – preferably large commercial clients with multiple facilities. For each reference, include a contact name, phone number, and email address for the appropriate contact.
- c. **Methodology:** Describe the Proposer's approach to the services and its ability to accommodate dynamic service needs due to events and activities at HFC facilities. Explain the Proposer's reporting methodology for waste disposal and recycling, such as how weights and charges for every collection point and haul will be documented. Highlight any technological innovations, such as remote monitoring, that would be used in the performance of services for HFC.
- d. **Pricing:** Proposers are to must provide pricing for the services using the Pricing Form available online at www.houstonfirst.com/do-business.
- e. **Diversity Commitment:** Proposers should indicate how they intend to make good faith efforts to utilize diverse companies to meet the Diversity Goal for these services.

While there is no page limit, Proposers are asked to avoid excessive graphics, title pages, or other extraneous information in their proposal.

EVALUATION

HFC will review and rank every proposal received in response to this RFP based on the following weighted criteria: Transmittal Letter, including expressed acceptance of the Commercial Waste Removal and Recycling Services Agreement; (10 points); Profile (20 points); Methodology (30 points); Pricing (30 points); and Diversity Commitment (10 points).

HFC expects to enter into a five-year contract to the Proposer offering the best value to HFC, as measured by HFC utilizing the foregoing evaluation criteria. HFC reserves the right to schedule

interviews with the top-ranked firms, not to exceed five, prior to selecting a Proposer. If interviews are scheduled, then up to an additional 20 points may be added to the existing scores of the top-ranked firms, for a maximum possible total of 120 points, based on their responsiveness and project approach during such interviews.

Without limiting the foregoing, HFC reserves the right to select or reject all or part of any proposal, waive minor technicalities, and select one or more proposals in the manner and to the extent that they serve the best interests of HFC. This RFP does not commit HFC to award a contract or issue a purchase order. HFC shall not pay or reimburse any costs incurred in the preparation of a proposal or participation in an interview incurred by any person or entity in connection with this RFP. By submitting a Proposal, Proposers acknowledge that some subjective judgments must be made by HFC in the RFP process. HFC reserves the right to request proposal clarifications/additional information from some or all Proposers.

DIVERSITY PARTICIPATION

The Proposer selected will be required to use good-faith efforts to award subcontracts to diversity participants certified by any of the identified certification agencies as defined in the [HFC Diversity Program](#). HFC has established the following goal for these services: **10%** of the total value of the agreement. Proposers should note if they are certified as a diversity participant in their submittal; however, such certification shall not lessen or otherwise alter the requirement to use good faith efforts to award subcontracts to diversity participants. Diversity participation information provided by Proposers should be delivered with the Proposal in a **separately-sealed envelope** labelled "**Diversity**".

FORM OF AGREEMENT

By submitting a response to this RFP, Proposer agrees, upon notice of selection, to enter into the [Commercial Waste Removal and Recycling Services Agreement](#) available online at www.houstonfirst.com/do-business. Any questions or objections to the terms must be raised prior to submission of a Proposal by submitting an email to bids@houstonfirst.com. Responses to material questions and issues will be included in a Letter of Clarification. Submission of preprinted forms or alternative legal terms by a Proposer shall in a Proposal being deemed as non-responsive.

VENDOR CODE OF CONDUCT

Proposers who do business or seek to do business with HFC are expected to interact with HFC with high ethics and integrity. To promote ethical conduct by its existing and potential contractors, HFC has adopted a Code of Conduct for Vendors, available online at www.houstonfirst.com/do-business. HFC requires that all Proposers be familiar with and abide by the Code of Conduct for Vendors. Without limiting the foregoing, Proposers must disclose if they have, within the past five years, (i) been party to a service contract terminated for cause, or (ii) received material, adverse findings from any governmental authority having regulatory oversight of services similar to those required hereunder.

RESTRICTIONS ON COMMUNICATIONS

Throughout the selection process, commencing with the Issue Date, potential Proposers are directed not to communicate, directly or indirectly, with any HFC employee, officer, director, or selection committee member regarding their Proposal, or any matter relating to this solicitation, other than during the Pre-Proposal Meeting or through bids@houstonfirst.com. Proposers who

disregard this Restrictions on Communications provision do so at their peril, as **HFC reserves the right to reject any proposal received due to violation of this provision.**

CONFLICTS OF INTEREST

Proposers are advised that they have an affirmative obligation to disclose any affiliation or business relationship with an HFC employee, officer, or director creating a conflict of interest (or appearing to a reasonable person to potentially exist). Those who need the disclosure form may find it [online](#). By submitting a proposal, Proposers represent to HFC that they have complied with the requirements of Chapter 176 of the Texas Local Government Code.

PROTEST PROCEDURES

Any protest relating to the form, terms and conditions, selection criteria, specifications, exhibits, or any other material solicitation content must be filed by the actual or potential Proposer with the Purchasing Agent no later than five business days prior to the Submission Deadline. If the protest consists of a dispute regarding the Proposer recommended by the selection committee, or otherwise relates to the alleged misapplication of selection criteria, then the Purchasing Agent must receive the protest from an actual Proposer after the Submission Deadline, but at least three business days prior to consideration of a contract resulting from this solicitation by an HFC committee or Board of Directors, whichever is earlier.

All protests must be made in writing and delivered to Houston First Corporation, Attn: Purchasing Agent, 701 Avenida de las Americas, Ste. 200, Houston, TX 77010. To be considered by HFC, protests must be timely received and include, at a minimum, all of the following information: (a) The name, address and contact information of the Proposer, with sufficient information to establish that a bona fide Proposer is the person or entity filing the protest; (b) The full title of the solicitation; (c) Material grounds for the protest, including the provisions of the solicitation and the applicable law or regulation that serves as the basis for the protest; (d) A statement of the specific relief requested by the Proposer; (e) Reference to and attachment of any pertinent documents or sources relied upon by the protestor that the protestor wishes to have HFC consider; and (f) An affidavit attached to support any factual allegations stated in the submission. The Purchasing Agent will notify the Proposer promptly to acknowledge receipt of a protest.

PUBLIC INFORMATION

HFC is subject to the Texas Public Information Act ("TPIA"). Information submitted by Proposers is subject to release under the provisions of the TPIA set forth in Chapter 552 of the Texas Government Code. Each page where confidential or proprietary information appears must be labeled as such clearly and unambiguously. Proposers will be advised of any request for public information that implicates their materials and may, in accordance with applicable law, elect to assert objections to disclosure with the Texas Attorney General at their cost and expense.

RFP PACKETS

A complete copy of this RFP, including exhibits, necessary forms and other relevant information is available on-line at www.houstonfirst.com/do-business. This RFP provides the information necessary to prepare and submit a proposal for consideration and ranking by HFC.

WITHDRAWAL OF PROPOSAL; ERRORS

To withdraw a Proposal due to an error or any other reason, a written request from the Proposer must be received at bids@houstonfirst.com prior to the Submission Deadline.

COMMERCIAL WASTE REMOVAL AND RECYCLING SERVICES AGREEMENT

This Commercial Waste Removal and Recycling Services Agreement (“Agreement”) is made by and between Houston First Corporation (“HFC”), whose address is 701 Avenida de las Americas, Suite 200, Houston, TX 77010 and [TBD] (“Contractor”), whose address is [TBD]. In consideration of the mutual promises contained herein, the parties hereby agree as follows:

ARTICLE 1: DUTIES OF CONTRACTOR

1.1 Services. Contractor shall provide all labor, management, materials, equipment, vehicles, insurance, fuel, and other goods and services of any kind or type necessary to provide commercial waste removal and recycling services at the Facilities in strict accordance with the terms and conditions of this Agreement, including the Scope of Services attached hereto as **Exhibit “A”** and made a part hereof for all purposes (collectively, the “Services”).

1.2 Standard of Care. Contractor represents and warrants to HFC that the Services shall be performed in compliance with applicable federal, state, and local laws, statutes, ordinances, rules, regulations and lawful orders of public authorities, as may be amended from time to time, and in a good and workmanlike order meeting the standards of quality prevailing in Harris County, Texas for services of this kind.

1.3 License and Permits. Contractor shall obtain, maintain, and pay, at its sole cost and expense, for all licenses, permits, and certificates necessary to perform the Services, including, but not limited to, all professional licenses required by any statute, ordinance, rule, or regulation.

1.4 Supervision. Contractor shall supervise and direct the Services, using Contractor’s best skill and attention. Contractor shall be solely responsible for, and have control over, means, methods, techniques, sequences and procedures for coordinating all portions of the Services under the Agreement, except the limited extent that other, specific instructions concerning such matters are set forth in this Agreement or Scope of Services. Contractor shall enforce strict discipline and good order among Contractor’s employees and other persons carrying out the Services. Contractor shall perform all Services using trained and skilled persons having substantial experience performing the work required under the Agreement. Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

1.5 Safety. Contractor represents and warrants to HFC that the Services shall be performed in accordance with applicable safety rules and regulations, including but not limited to OSHA standards and directives for setting-up and utilizing platforms, lifts, ladders, scaffolding, safety lines and belts, and operating other, similar equipment. Contractor acknowledges that this Agreement requires Services to be performed in a variety of weather conditions, with exposure to outdoor elements. Contractor shall ensure that its employees, agents, contractors and subcontractors use personal protective equipment and other equipment in the manner and to the extent required to perform the Services safely.

1.6 Actions of Personnel. Contractor shall be responsible for all aspects of Services performed by its employees, agents, and contractors of any tier, including accuracy, quality of performance, service standards, timeliness, and compliance with applicable law. Contractor shall be liable to HFC for the negligent and intentional acts and omissions of Contractor’s employees, agents, and contractors of any tier performing portions of the Services for or on behalf of Contractor, including, but not limited to, damage to any vehicles, equipment, fixtures, or other property of any kind or type. Contractor shall, at its

sole cost and expense, promptly remedy such damages and restore any property or fixtures thereby affected to the condition existing prior to such damage to the satisfaction of HFC.

1.7 Correction of Services. If any Services performed by Contractor (including its subcontractors) do not meet the standards of this Agreement, as determined by HFC in its reasonable discretion, then Contractor shall correct or modify the Services promptly upon demand from, and at no additional cost to, HFC. If Contractor fails to perform or performs any Service contrary to applicable laws, statutes, ordinances, rules and regulations, and/or lawful orders of public authorities, then Contractor shall be liable for such violation and shall bear the costs attributable to correction.

1.8 Equipment Warranty. With respect to any dumpsters, containers, receptacles or other equipment furnished by Contractor in connection with the Services or this Agreement, Contractor represents and warrants to HFC that all such equipment: (a) is free of defects in title, design, material, and workmanship; (b) meets or exceeds the requirements of this Agreement, including the Scope of Services, and standards issued with the American National Standards Institute; and (c) shall be maintained in accordance with original equipment manufacturer's specifications and replaced as needed throughout the Term with equipment of a quality at least as good as the item being replaced (when the replaced item was new). Equipment not conforming to the requirements of this Section shall be deemed defective and repaired or replaced at the sole option of HFC by Contractor, at no cost to HFC. The parties agree that no warranty made by Contractor is intended to limit, nor shall it be construed as limiting in any manner or to any extent, any manufacturer's or supplier's warranty.

1.9 Field Inspection. Execution of this Agreement by Contractor is a representation to HFC that Contractor has visited and inspected each Facility, examined systems and equipment, become familiar with the conditions under which the Services are to be performed, and correlated personal observations with the requirements of the Agreement.

1.10 Improvements. Any improvements made by Contractor at the Facilities in connection with the Services, such as walkways, platforms, or other objects affixed to a Facility, shall be maintained by Contractor during the Term, and shall become the property of HFC and remain affixed to the Facility at the expiration of the Term or earlier termination of this Agreement.

1.11 Disposal. Contractor shall transport and dispose of all solid wastes collected pursuant to this Agreement safely and in the manner required under applicable law and regulation. Contractor represents and warrants that each disposal site has been approved by all governing authorities with jurisdiction over the disposal of solid wastes, that it shall not dispose of solid wastes at any disposal site which has had its permit revoked, and that the vehicles used to transport the solid waste meet or exceed the operating standards established by all regulatory authorities with jurisdiction over the transportation of solid wastes. Upon request by HFC, Contractor shall identify the disposal sites it will use for the disposal of solid waste collected at the Facilities by submitting a written list of the disposal sites to HFC. Geographic locations and associated permit numbers shall be included with each disposal site description

ARTICLE 2: TERM AND PAYMENT

2.1 Fees. HFC agrees to pay Contractor for its Services in accordance with the fees set forth in **Exhibit "B" [TBD based on Pricing Form in final Agreement]** to this Agreement. Contractor represents and warrants to HFC the fees set forth in Exhibit "B" are the only amounts payable to Contractor for the Services. In addition to and without limiting the foregoing, Contractor expressly acknowledges and agrees

that HFC shall not be pay or be liable for any expenses, surcharges, fines, penalties, fuel, taxes, travel time, trip charges, delivery/removal fees, overage fees, evening/weekend/holiday premiums, or other costs of any kind or type.

2.2 Estimated Quantities and Frequencies. Contractor acknowledges and agrees that HFC has not and shall not represent a guaranteed minimum payment, profit, or quantity/frequency of Services. Estimated quantities specified in this Agreement, including the Scope of Services, are not a guarantee of actual quantities, as frequencies and Service requirements will vary throughout the Term based on Facility events and actual needs, as determined by HFC in its sole discretion. HFC shall not be held liable for contractual agreements/obligations or damages incurred by Contractor relating to such quantities/frequencies in any manner or to any extent.

2.3 Invoice Requirement. Contractor will be paid on the basis of, and in response to, separate monthly invoices submitted by Contractor to each HFC General Manager, subject to their individual review and approval. Each such invoice shall (a) be Facility-specific (except to the extent HFC directs the Contractor to combine Facilities); (b) itemize and detail all Services performed and related charges; (c) and include such other detail as HFC may require.

2.4 Invoice Procedures. Invoices shall be submitted electronically by the eight (8th) calendar day of the month following each month in which services are performed. HFC shall make payment to Contractor within 30 calendar days of receipt and approval by HFC of such invoices.

2.5 Invoice Disputes. If any item in any invoice submitted by Contractor are disputed by HFC for any reason, including lack of supporting documentation, then HFC shall temporarily delete the disputed item and pay the remaining amount of the invoice; provided, however, that HFC shall promptly notify Contractor of the dispute and request clarification and/or remedial action. After any dispute shall have been settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on an invoice for the disputed item only.

2.6 Taxes. HFC is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to HFC must not contain assessments of any of these taxes. HFC will furnish an exemption certificate and federal tax identification number to Contractor if requested.

2.7 Payment of Employees and Subcontractors. Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees and contractors of any tier. Contractor is solely responsible for the payment of overtime wages in accordance with applicable law. Failure of Contractor to pay its employees or contractors of any tier as required by law shall constitute a material default under this Agreement.

2.8 Records. Contractor shall maintain true, complete and accurate documentation on any and all charges payable by HFC under this Agreement, the Facility from which the solid waste and recyclable materials were collected, the volume thereof itemized by category, and the specific disposal and recycling sites where materials were delivered. Books, records and documents of the Contractor shall be maintained by Contractor for a period of three calendar years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by HFC or its designee. These records shall be maintained in accordance with generally accepted accounting principles. Contractor shall not combine or comingle any accounts, records, reports, statements, ledgers, billings, invoices, receipts, collections, or

other documents of any nature whatsoever pertaining to HFC or the Facilities with any similar or dissimilar record or document pertaining to any other contract, agreement, account, or understanding to which Contractor is a party.

2.9 Term. The term of this Agreement shall begin on **August 1, 2023** and end on **July 31, 2028** (“Term”). HFC may, in its sole discretion, extend the Term by up to an additional six calendar months, on the same terms and conditions as set forth herein, by notifying Contractor in writing of such extension.

ARTICLE 3: INSURANCE

3.1 Insurance Requirements. With no intent to limit Contractor’s liability under the indemnification provisions hereof, Contractor shall provide and maintain, and shall require its contractors and subcontractors to maintain, for the full duration of the Term, including any extension thereof, at least the following insurance and available limits of liability:

- a. Commercial General Liability, including broad form coverage, contractual liability, bodily injury/death, and property damage in amounts not less than \$1,000,000 each occurrence and a \$2,000,000 aggregate;
- b. Automobile Liability, with a combined single limit of \$1,000,000 per occurrence;
- c. Workers’ Compensation with statutory limits; and
- d. Employer’s Liability, with limits of \$1,000,000 for each accident, disease limits of \$1,000,000 per policy and \$1,000,000 per employee.

3.2 Additional Insured Parties. Each policy, except those for Workers’ Compensation and Employer’s Liability, must include an additional insured endorsement in favor of HFC and the City of Houston on the original policy and all renewals or replacements during the Term.

3.3 Waiver of Subrogation. Each policy must contain an endorsement approved by HFC waiving any claim or right in the nature of subrogation in favor of HFC and the City of Houston on the original policy and all renewals or replacements during the Term.

3.4 Rating. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or shall be an eligible non-admitted insurer in the State of Texas and have an A.M. Best’s rating of at least A– with a financial size category of Class VI or better, according to the most current edition of Best’s Key Rating Guide, Property-Casualty United States.

3.5 Premiums and Deductibles. Contractor shall be solely responsible for payment of all insurance premiums hereunder. Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for same against HFC, its officers or employees.

3.6 Primary Insurance. Each policy hereunder, except Workers’ Compensation, shall be primary and noncontributory to any other policies of insurance which may be available to HFC with respect to claims arising in connection with this Agreement.

3.7 Certificates of Insurance. Contractor shall deliver a certificate of insurance evidencing all of the policies, endorsements and requirements set forth in the Agreement within 10 calendar days of the Effective Date and annually thereafter, or immediately upon demand from HFC. Neither the issuance of any insurance policy required under this Agreement nor the minimum limits specified herein shall be deemed to limit or restrict in any manner that liability of Contractor under or out of this Agreement and Contractor shall be liable for any loss, damage or liability suffered or incurred by HFC as the result of the failure of Contractor to maintain or cause to be maintained the types or amounts of insurance required to be maintained under this Agreement.

3.8 Subcontractor Insurance. Contractor shall ensure that its contractors of any tier provide insurance of the types and amounts commensurate with the foregoing requirements, including Commercial General Liability limits of \$1,000,000 per occurrence with a \$2,000,000 and Automobile Liability limits of \$1,000,000 per occurrence.

ARTICLE 4: LIMITATION OF LIABILITY

4.1 Release. **CONTRACTOR AGREES TO AND HEREBY DOES RELEASE HFC, ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AND AGENTS FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE BY CONTRACTOR UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED IN PART BY THE NEGLIGENCE OF HFC CONCURRENTLY WITH CONTRACTOR.**

4.2 Indemnification. **TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HFC, INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS, (COLLECTIVELY, "INDEMNITEES") HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, JUDGMENTS, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) (COLLECTIVELY, "CLAIMS") FOR INJURY, DEATH, DAMAGE, OR OTHER LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE OF SERVICES UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE CLAIMS CAUSED BY OR RELATING TO CONTRACTOR AND/OR ITS ANY IF ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY, "CONTRACTOR'S") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS; INDEMNITEES' AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE (EXCLUDING CLAIMS CAUSED BY THE SOLE OR GROSS NEGLIGENCE OF INDEMNITEES); AND ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL EMPLOYMENT LAWS, INCLUDING WITHOUT LIMITATION, ANY AND ALL CLAIMS BROUGHT AGAINST INDEMNITEES BY CONTRACTOR'S PERSONNEL AND/OR GOVERNMENT AGENCIES ARISING FROM, RELATING TO, OR INVOLVING SERVICES OF CONTRACTOR'S PERSONNEL UNDER THIS AGREEMENT.**

4.3 Limitation of Liability. **HFC SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY**

DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS (DIRECT OF INDIRECT) AND LOST REVENUES HOWSOEVER ARISING, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF HFC HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN ANY SUCH DAMAGES.

4.4 Notice of Claims. If HFC or Contractor receive notice of any claim or circumstances that could give rise to an indemnified loss, then the receiving party shall give written notice to the other party within 30 calendar days. The notice must include a description of the indemnification event in reasonable detail, the basis on which indemnification may be due, and the anticipated amount of the indemnified loss. This notice does not stop or prevent HFC from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If HFC does not provide this notice within such period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

4.5 Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to HFC. Within 10 calendar days after receiving written notice of the indemnification request, Contractor must advise HFC as to whether or not it will defend the claim. If Contractor does not assume the defense, then HFC may assume and control the defense, and all defense expenses constitute an indemnification loss.

4.6 Continued Participation. If Contractor elects to defend the claim, HFC may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of HFC, unless it would result in injunctive relief or other equitable remedies or otherwise require the Indemnitees to comply with restrictions or limitations that adversely affect the Indemnitees; require the Indemnitees to pay amounts that Contractor does not fund in full; or does not result in the Indemnitees' full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

ARTICLE 5: DEFAULT AND TERMINATION

5.1 Default. Contractor shall be deemed to be in default under this Agreement due to the occurrence of any of the following events: (a) Contractor fails to perform or observe any term, condition or requirement under this Agreement; (b) Contractor, or any employee, agent, contractor, or subcontractor of Contractor, violates applicable law in connection with the performance of the Services; (c) Contractor becomes insolvent; (d) All or substantial part of Contractor's assets are assigned for the benefit of its creditors; (e) a receiver or trustee is appointed for Contractor; or (f) Contractor assigns this Agreement without the prior written consent of HFC.

5.2 Remedies. If default by Contractor occurs, then HFC shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, HFC shall have the right, but not the obligation, to cure or cause to be cured on behalf of Contractor any such default, and Contractor shall pay HFC on demand all costs and expenses incurred by HFC in effecting such cure, in addition to all actual damages, losses, costs or expenses incurred by HFC as a result of such default by Contractor.

5.3 Termination for Convenience. HFC reserves the right to terminate this Agreement for convenience at any time by giving 30 calendar days' written notice to Contractor. The right of HFC to terminate this

Agreement for convenience is cumulative of all rights and remedies that exist now or in the future. On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all Services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the service performed under this Agreement up to the termination date. HFC shall then pay the fees to Contractor for Services actually performed, but not already paid for. **TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE THE SOLE AND EXCLUSIVE REMEDIES OF CONTRACTOR FOR TERMINATION FOR CONVENIENCE BY HFC, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED HEREIN), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM TERMINATION OF THIS AGREEMENT BY HFC FOR CONVENIENCE.**

5.4 Termination by Contractor. Contractor may terminate this Agreement only if HFC defaults and fails to cure the default after receiving written notice thereof. Default by HFC occurs if HFC fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor seeks to terminate the Agreement, then Contractor must deliver a written notice to HFC describing the default and proposed termination date. Such date must be at least 90 days after HFC receives notice. If HFC cures the default before the proposed termination date, then the proposed termination date is ineffective. If HFC does not cure the default before the proposed termination date, then Contractor may terminate this Agreement upon 30 days' notice to HFC and may seek any remedy available under applicable law, subject to the provisions and limitations of this Agreement.

5.5 Remedies Cumulative. The rights and remedies of HFC under this Agreement shall be cumulative. HFC shall have and may exercise all other rights and remedies not inconsistent herewith as provided under applicable law, or in equity. No exercise by HFC of one right or remedy shall be deemed an election, and no delay by HFC shall constitute a waiver, election or acquiescence to any default, breach, violation, or non-performance by Contractor.

ARTICLE 6: MISCELLANEOUS PROVISIONS

6.1 Diversity Program. Contractor shall make good faith efforts to award subcontracts equal to **10%** of the value of this Agreement to certified, diverse suppliers of good and services in accordance with the Diversity Program established by HFC, which is made a part hereof for all purposes. Contractor shall disclose to HFC the manner and extent to which it has made good faith efforts to achieve such goal and submit reports on forms provided by HFC with each invoice, or as directed by HFC.

6.2 Additions and Deletions. HFC, by means of a written directive to Contractor, may add or delete Facilities, equipment, locations, or services to or from this Agreement. Written notification of the added or deleted Facilities, equipment, locations, or services shall take effect upon Contractor's receipt of such notice or on such other day as specified therein. Charges for deletions shall be excluded from any sums otherwise due under the Agreement as of the date such notice is issued by Contractor. Charges for additions shall be provided at the same cost as existing Services under the Agreement or, in the absence thereof, at a reasonable price agreed upon in advance by HFC and Contractor.

6.3 Environmental Laws. Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency, the Texas Commission on Environmental Quality, and any other

governmental agency with the authority to promulgate environmental rules and regulations (“Environmental Laws”). Contractor shall promptly reimburse HFC for any fines or penalties levied against HFC because of Contractor’s failure to comply with Environmental Laws. Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to or from the Facilities except in strict compliance with the Environmental Laws. “Hazardous Materials” means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable Federal, State, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease lubricants or any ignitable or hazardous liquids, materials, or substances in the storm sewer system or sanitary sewer system or elsewhere on HFC property in violation of the Environmental Laws. Contractor shall provide a Safety Data Sheet for each and every Hazardous Material used in performance of the Services on HFC property as required under the Environmental Laws.

6.4 Sponsorship and Advertising. Contractor shall not display or permit to be displayed any advertisement or sponsor information at the Facilities without prior written approval from HFC. The term “sponsor information” includes any third-party name, logo, brand, symbol, motto, trademark, service mark, or any other indicia of service, product and/or corporate identification. Contractor shall not enter into any advertising or sponsorship agreements in connection with this Agreement or otherwise related to the Facilities, including but not limited to sponsoring or supporting an event, HFC licensee, or Facility user for consideration or name/brand promotion without prior written consent of HFC, as determined by HFC in its sole discretion. Contractor shall not display or use the name, logo, trademark or service mark of HFC in any manner without prior written permission from HFC. This Agreement shall not be construed to restrict or otherwise affect the right of HFC to use third party services (including but not limited to competitors of Contractor) or enter into agreements relating to advertising or sponsorship in any manner.

6.5 Force Majeure. Timely performance by both parties is essential to this Agreement. However, neither party will be liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by an occurrence of Force Majeure. For purposes of this Agreement, the term “Force Majeure” shall mean fires, floods, hurricanes, tornadoes, explosions, war, terrorism, and the acts of a superior governmental or military authority. The term Force Majeure does not include strikes, slowdowns or other labor disputes; changes in general economic conditions, such as inflation, interest rates, economic downturn, or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Relief is not applicable unless the affected party uses due diligence to remove the Force Majeure as quickly as possible and provides the notice describing the actual delay or non-performance incurred within 20 calendar days after the Force Majeure ceases. An occurrence of Force Majeure shall not extend the Term. Without limiting the foregoing, HFC further reserves the right, due to an occurrence of Force Majeure or other cause beyond the control of HFC, to suspend performance by Contractor at one or more Facilities for such period of time as HFC may determine in its sole discretion, and Contractor acknowledges and agrees that fees for Services or other payments of any kind or type shall abate for the duration of such period. **CONTRACTOR AGREES TO AND SHALL WAIVE ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSS OR OTHER DAMAGES RESULTING FROM SUSPENSION OF SERVICES OR TERMINATION OF THIS AGREEMENT DUE TO FORCE MAJEURE, EXCEPT FOR AMOUNTS DUE HEREUNDER UP TO THE TIME SERVICES WERE SUSPENDED OR TERMINATED.**

6.6 Notices. Notices to either party to the Agreement must be in writing and must be delivered by hand, United States registered or certified mail, return receipt (or electronic return receipt) requested, Federal Express, UPS or any other national overnight express delivery service. The notice must be addressed to

the party to whom the notice is given at its address set out in this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

6.7 Independent Contractor. HFC and Contractor agree that they do not intend to form, and this Agreement shall not be construed as creating, a partnership or joint venture under any circumstances. Neither party hereto shall have any authority, in any manner or to any extent, to bind the other party. With respect to each other, the parties shall be independent contractors for all purposes.

6.8 Venue and Laws. Contractor shall strictly comply with all applicable laws, ordinances, codes, and regulations that affect performance by Contractor hereunder. This Agreement shall be construed in accordance with the laws of the State of Texas without regard to conflict of law principles. Any litigation in connection with this Agreement shall be in a court of competent jurisdiction in Harris County, Texas.

6.9 Non-Waiver. Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

6.10 No Liens or Encumbrances. Contractor shall keep the Facilities free and clear of all liens and encumbrances resulting from any action of Contractor or in connection with the Services.

6.11 Ambiguities. If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

6.12 Non-Exclusivity. Services under this Agreement are non-exclusive, and HFC reserves the right to contract, license, grant, or allow other third-parties persons and entities to perform similar or dissimilar services in its sole discretion without incurring any liability or obligation whatsoever to Contractor.

6.13 Survival. The parties shall remain obligated to each other under all clauses of this Agreement that expressly or by their nature extend beyond the expiration of the Term or termination of the Agreement.

6.14 Assignment and Severability. Contractor shall not assign this Agreement in whole or in part without the prior written consent of HFC. HFC reserves the right to assign this Agreement in whole or in part, including any or all rights granted hereunder, at any time upon written notice to Contractor. If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

6.15 Entire Agreement. This Agreement, including the exhibits attached hereto, represents the entire and integrated agreement between HFC and Contractor with regard to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. In the event of a conflict between the Agreement and the Exhibits, this Agreement shall control and prevail. This Agreement may not be altered or amended except in a writing executed on behalf of HFC and Contractor.

[signature block to follow in final Agreement]

Exhibit “A”
Scope of Services

Contractor agrees to and shall provide all labor, supervision, materials, equipment, insurance, vehicles, fuel, and other goods and services necessary to provide the Services in strict accordance with the terms and conditions of the foregoing Agreement, including this Scope of Services.

Article 1. Definitions

As used in this Agreement, the following terms have the meanings set out below:

“**Facility**” (and collectively, “**Facilities**”) means the George R. Brown Convention Center; Wortham Theater Center; Jones Hall, Miller Outdoor Theatre; Partnership Tower; Lynn Wyatt Square; and such other buildings, garages, lots, and properties as HFC may designate during the Term in the manner provided in this Agreement.

“**George R. Brown Convention Center**” means the convention and meeting facility located at 1001 Avenida de las Americas, Houston, Texas 77010.

“**HFC General Manager**” means the individual designated by HFC to serve as general manager of one or more Facilities to oversee day-to-day operations.

“**Jones Hall**” means the performing arts facility located at 615 Louisiana St., Houston, Texas 77002.

“**Lynn Wyatt Square**” means the landscaped city block and venue, formerly known as Jones Plaza, bounded by Louisiana St., Capitol St., Smith St., and Texas Ave.

“**Miller Outdoor Theatre**” means the outdoor performing arts facility located in Hermann Park in Houston, having a street address of 6000 Hermann Park. Dr., Houston, Texas 77030.

“**Partnership Tower**” means the 10-story office tower located at 701 Avenida de las Americas, Houston, Texas 77010.

“**S. Jensen Theater**” means the performing arts theater located at 333 S. Jensen Dr., Houston, Texas 77003, commonly known as Talento Bilingue de Houston.

“**Wortham Theater Center**” means the performing arts venue located at 501 Texas Ave., Houston, Texas 77002.

Article 2. Services Generally

2.1 Services. Contractor hereby accepts and assumes the duty and obligation to provide the Services at the Facilities in the manner provided in the Agreement, including this Scope of Services. Contractor shall provide on-call service, next day waste removal and same day emergency service when the request is made before 10:00 a.m.

2.2 Collection Vehicles. Contractor shall furnish, operate and maintain all vehicles for the transportation and disposal of solid waste and recyclable materials. Vehicles must be equipped with non-leaking containers or compartments, tops or coverings to guard against spillage and conceal contents from view. Vehicles shall be kept covered or closed at all times except when being loaded or unloaded, and Contractor's company name shall be clearly displayed on the exterior of the vehicles.

2.3 Service Verification. HFC General Managers shall have the right to require Contractor personnel to check-in and check-out upon arrival at, and just prior to departure from, a Facility. Further, HFC General Managers shall have the right to require pick-up receipts, or to require Contractor personnel to complete and sign a statement noting the date and tasks completed during each Service visit, in a form approved by HFC.

2.4 Equipment. Contractor shall provide all equipment necessary for the collection of non-hazardous commercial waste and recyclable materials at collection sites designated and at the frequencies specified in Exhibit "B" (subject to written adjustments subsequently by an HFC General Manager) to ensure the effective and efficient performance of the Services. Contractor shall maintain all such equipment in good, sanitary working condition and appearance, free from defects, leaks, mold, mildew, rust, infestations, and excessive wear or residue, and Contractor shall replace any container or compactor not meeting such standards, as determined by HFC, promptly on its own initiative or in response to a request from an HFC General Manager in three calendar days. HFC shall not be liable for damage, loss, wear, or breakage of equipment or other personal property belonging to the Contractor, its employees, agents, or subcontractors. HFC General Managers reserve the right to require color-specific containers and compactors.

2.5 Cleanliness. When collecting solid waste and recyclable materials, Contractor shall not place the same upon or suffer the same to be placed or scattered upon any Facility and shall, upon collection, leave the premises in a neat and clean condition. Contractor shall not be allowed to store vehicles of any kind at the Facilities. If an unsightly or unsanitary condition results from any action of Contractor's personnel, then Contractor shall respond within four hours following notification by an HFC General Manager and shall restore the area to the satisfaction of HFC.

2.6 Roll-Off Dumpster Rental. To accommodate Facility events and activities, Contractor agrees to and shall provide on call roll-off dumpster and compactor service on a next-day basis. Charges for such service shall be as provide din Exhibit "B". All roll-off dumpsters and compactors will be serviced early in the morning to allow each site to have full capacity during the work day.

2.7 Training. At no cost to HFC, Contractor shall provide in-person demonstration and training on the use of equipment and proper recycling techniques and shall provide all written documentation for safety regulations and training.

2.8 Disaster Mitigation. In the event of an actual or impending disaster or emergency, Contractor shall proactively take all appropriate actions under the circumstances to protect the health, safety and welfare of all persons, as well as to prevent, limit or otherwise mitigate damage to the Facilities, equipment and other property. Contractor shall meet with HFC to discuss planning and implementation of disaster preparedness and relief plans as directed.

2.9 Silence of Specifications. Specifications set forth in this Scope of Services cover the minimum requirements for collection, transportation, disposal of commercial solid waste and recyclable materials.

The descriptions contained in these specifications shall be considered as instructive to the Contractor as to the type and quality of containers and compactor units desired. The apparent silence of these specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices shall prevail. All interpretation of these specifications shall be made based upon this statement.

Article 3. Personnel Requirements

3.1 Service Manager. Contractor shall, at its sole cost and expense, designate and appoint one its employees to serve as the point-of-contact for all matters arising under this Agreement, including, but not limited to, service issues, scheduling, billing, reports, investigating and responding to complaints, and ensuring the timely, safe and effective performance of the Services in all respects (the “Service Manager”). Contractor represents and warrants to HFC that such Service Manager is authorized to represent and act for Contractor with regard to all matters pertaining to this Agreement or arising in connection with the Services. If the employment of the Service Manager designated and appointed by Contract terminates for any reason, then Contractor shall, within 10 calendar days, notify HFC in writing and provide the name and contact information for the replacement Service Manager.

3.2 Direct Contact. Contractor represents and warrants that the Service Manager designated and appointed by Contract shall be available immediately by phone, email, and text message Monday through Friday from at least 9:00 a.m. to 5:00 p.m. (excluding holidays). Outside of such times, Contractor guarantees a specific, personal response within 60 minutes, with a direct and immediate contact made available to HFC for use in the event of an emergency at all times. Contractor acknowledges that a salesperson or general-purpose means of inquiry (such as a website or toll-free number) shall not suffice for purposes of the requirements of this Article.

3.3 Scheduling. Contractor’s Service Manager shall proactively meet or communicate with HFC General Managers on an as-needed basis to determine and adjust Service schedules and frequencies as directed to prevent disruption of events and activities at the Facilities. Contractor acknowledges that the frequencies of pick-up service will fluctuate from time to time, and Contractor shall make immediate and accurate adjustments to the contract pricing reflecting such fluctuations. Equipment delivery, installation and removal shall be scheduled in advance with an HFC General Manager, and at no cost to HFC. An email from an HFC General Manager to the Service Manager shall suffice for notice purposes to increase or decrease service frequencies, achieve seasonal service and equipment changes, and schedule roll-off dumpster and compactor rental for events, provided that rates for such services are provided in Exhibit “B”. For the avoidance of doubt, HFC shall not pay for scheduled services that are not conducted by Contractor for any reason.

3.4 Consultation. Contractor shall, at no cost to HFC, provide strategic direction with regard to the Services throughout the Term and consult with HFC on matters pertaining to new equipment, materials and techniques to enhance and make performance of the Services more efficient.

3.5 Identification. Contractor personnel, including subcontractors, shall be required to carry and have clearly displayed on their person a photo identification badge at all times when present or performing Services at the Facilities or in any areas not open to the general public or otherwise restricted. Contractor shall issue such identification badges at its sole cost and expense. Each badge shall include, at a minimum, the company name, first and last name of the individual, and a recent photographic image of the individual.

Article 4. Facility-Specific Requirements

4.1 Conflicts; Order of Control. Contractor shall observe, abide by, and ensure the timely and effective performance of the Services in accordance with the Facility-specific requirements set forth in this Article. In the event of a conflict or inconsistency between a requirement in this Article and any other provision of the Agreement, including this Scope of Services, the more restrictive provision shall control and prevail.

4.2 Events and Activities. Contractor agrees to and shall use its best efforts not to disrupt or interfere with events and activities at the Facilities and minimize noise and odor during the performances of the Services.

4.3 Service Hour Restrictions (Miller Outdoor Theatre). At Miller Outdoor Theatre, Contractor shall be required to collect commercial waste and recyclable materials between the hours of 1:00 a.m. and 6:00 a.m. only.

4.4 Service Hour Restrictions (Jones Hall). At Jones Hall, Contractor shall be required to collect commercial waste between the hours of 2:00 a.m. and 6:00 a.m. only.

4.5 Jones Hall Equipment. As of the Effective Date, HFC owns three (3) 2.5 cu. yd. containers and two (2) 1.5. cu. yd. gondolas used for commercial waste disposal. HFC reserves the right to consolidate such containers and/or gondolas during the Term (e.g., with 95 gal. Containers), without the imposition of additional fees or charges from Contractor.

4.5 George R. Brown Convention Center Equipment. Two (2) 30-cu.yd. compactors at the George R. Brown Convention Center must include and feature a doghouse enclosure with a lockable door latch.

4.6 Seasonal Changes. Wortham Theater Center and Miller Outdoor Theatre shall require service frequency changes and equipment adjustments seasonally due to events and activities. When requested by an HFC General Manager, Contractor shall, promptly and at no cost to HFC, remove one or more solid waste and/or recyclable materials containers from seasonal locations and return the containers at a later date, as specified by HFC, when the volume of materials is expected to increase. Contractor shall adjust its invoices accordingly, whenever services are either increased or decreased.

Article 5. Reporting Requirements

5.1 Monthly Recycling Reports. Contractor shall submit monthly reports to HFC by Facility that include the breakdown of items recycled. These reports shall include tonnage of solid waste, open-top waste, glass recycled, mixed plastic recycled, cardboard recycled, bulk paper recycled, and such other materials and information as HFC may require.

5.2 Periodic Reports. Contractor shall prepare and submit written progress reports on Service matters, on an as-needed basis, upon the request of HFC. Reports shall communicate activities accomplished during the previous period, document discussions, and record issues or concerns.

5.3. Waste Stream Management Audit. No more than twice per calendar year, Contractor shall complete a waste stream management audit within 90 days following receipt of a written request from HFC. Each such audit shall contain, at minimum: (a) The actual volume of solid waste collected from each container or compactor unit; (b) the actual volume of recyclable materials collected from each container or compactor unit; (c) suggested changes in number and types of containers, compactor units, and frequency

of collection, etc., based upon historical needs for collection, disposal and recycling services; (d) an analysis to identify those Facilities that may benefit from roll-off container service; and (d) such other information as HFC may require. Each audit shall include a comprehensive assessment of Services needed for each Facility to ensure there is sufficient waste containment capacity and collection frequency at each collection site at least 95% of the time. Contractor shall also examine the types of items that are currently being discarded by Facility users to help understand whether items are being discarded properly and shall provide suggestions on ways to improve the disposal of items at the Facilities and support all efforts to increase diversion rates at the Facilities.

5.4 Recycling Reports. Contractor shall provide data and reports on waste and diversion recycling volumes by Facility. Contractor must provide total complex summary/monthly, YTD annual diversion rates, and provide monthly diversion rate reports by building and by event of individual recovered (recycled or reused) commodities such as cardboard, paper, mixed metals, mixed plastics, glass, food service scraps, site waste, general waste, etc. Reports must include tonnages and percentages of total as well as overall diversion rates. Additional information equating diversion to saving of resources must be included, the number of trees, quantity of oil, kilowatt hours, and gallons of water saved, and the cubic yards not sent to landfill, and the total waste tonnage. HFC reserves the right to modify the reports as it deems in its best interest. All reports must be accompanied with supporting data and documentation in Microsoft Excel format.

5.5 Event-Specific Reports. Upon request from HFC, Contractor shall prepare event-specific summaries of waste diversion and recycling volumes for specific conventions and large events at the Facility, as designated by HFC. HFC may request the reports to be modified due to changes in the industry or to comply with specific client requests.

5.6 Data Accuracy. Contractor acknowledges and agrees that accurate and timely provision of data by Contractor to HFC is a critical component in the broader success of HFC's solid waste and recycling program. HFC expects to know the weights and charges for every collection point and every haul, and to receive this data regularly and in a format that is legible and easy to understand. Further, HFC expects reporting to fully understand annual performance and key trends.

5.7 Incident Reports. Contractor shall immediately report to the appropriate HFC General Manager any accident, injury, or near miss occurring during the performance of the Services and provide all reasonable assistance in the preparation of a written incident report. Damage caused in whole or in part by Contractor, its employees, agents, contractors or subcontractors during the performance of the Services shall be reported promptly by Contractor immediately to the appropriate HFC General Manager. Contractor shall provide prompt assistance to HFC in connection with or completion of any security incident reports, as requested.

Article 6. Sustainability

6.1 Recycling Program Education and Promotion. Contractor shall work with each HFC to instruct employees and contractors at the Facilities the recycling process and the proper use of and observation of symbols and signage. Upon request from HFC, Contractor shall assist in the development of promotional materials, and proof articles, press releases, memoranda and postings involving the HFC recycling program and efforts. In cooperation with HFC, Contractor shall offer support in planning large events, such as Earth Day, Texas Recycles Day, etc. as well as participate during events to further educate the

community about the benefits of recycling. Contractor agrees to attend one or more environmental fairs annually to promote the HFC recycling program.

6.2 Recycling Responsibility. Contractor assumes the responsibility of ensuring the recyclables materials collected from the Facilities are transported to appropriate recycling facilities, to ensure that the materials are recycled, and to responsively answer HFC questions and request for information regarding the recycling of materials. Contractor shall assess Facility operations and consult with HFC to identify additional waste streams that should be considered for incorporation into the recycling program and support HFC efforts to expand the recycling program to include additional locations and recyclables. For the avoidance of doubt, the parties agree that any material expansion of the recycling program beyond the reporting, consulting and related requirements provided in this Scope of Services shall require an additional services agreement or separate written agreement between the parties.

6.3 Recycling Plan. Contractor shall develop a recycling plan, for HFC's review and approval, within the first 90 days following the Effective Date, to be updated annually thereafter, which addresses the following: (a) types of collection receptacles to be used in private and public areas; (b) placement of collection receptacles and signage; (c) collection of recyclables from the receptacles and maintenance of the receptacles; (d) transportation of recyclables from office space or public areas to the storage/collection areas; (e) recommended types of storage bins or compactors for each of the recyclable materials and a description of how they should be used; (f) recommendations regarding the location of storage areas and compactors, to encourage use without disrupting operations; (g) estimates regarding the frequency of pick-up; and (h) other considerations required to make informed decisions regarding the HFC recycling program.