

AGREEMENT

#2024-001

Regional Collection, Transportation, and Recycling of Used Electronics

THIS AGREEMENT (“Agreement”), effective as of the last date of signature on this Agreement (“Effective Date”), is entered into by and between the North Central Texas Council of Governments (“NCTCOG”), a State of Texas political subdivision and non-profit corporation, with offices located at 616 Six Flags Drive, Arlington, Texas, 76011, and

Electronic Recyclers International, Inc.

7815 N. Palm

Avenue, Ste 140

Fresno, Ca 93711

(“Contractor”),

ARTICLE I

RETENTION OF THE CONTRACTOR

The Contractor is being retained as a provider of **Regional Collection, Transportation, and Recycling of Used Electronics** for NCTCOG to perform the scope of services described herein. NCTCOG agrees to and hereby does retain the Contractor, as an independent contractor, and the Contractor agrees to provide the services to NCTCOG and Participating Entities in accordance with the terms and conditions provided in this Agreement.

ARTICLE II

SCOPE OF SERVICES

- 2.1 The Contractor will provide services consistent with the requirements of **RFP #2024-001 Regional Collection, Transportation, and Recycling of Used Electronics** to NCTCOG and Participating Entities within the NCTCOG Service Area as described within **Appendix A.2** attached to this Agreement.
- 2.2 All Services rendered under this Agreement will be performed by the Contractor: i) with due care; ii) in accordance with generally prevailing industry standards; and iii) in compliance with all applicable laws, government regulatory requirements.
- 2.3 Any agreed-upon changes to a Statement of Work shall be set forth in an amendment. Contractor will not implement any changes or any new Services until an Amended Statement of Work has been duly executed by both parties. NCTCOG and Participating Entities shall not be liable for any amounts not included in a Statement of Work in the absence of a fully executed Amended Statement of Work.

ARTICLE III

TERM

- 3.1 **Term.** This Agreement will commence on the Effective Date and shall remain in effect for one (1) year (**the “Term”**) unless earlier terminated as provided herein. This Agreement may be renewed, at NCTCOG’s sole discretion for up to four (4) additional one (1) year terms.
- 3.2 **Termination.** Either Party may terminate this Agreement and/or any Statement of Work at any time, with or without cause, upon thirty (30) days’ prior written notice. Upon its receipt of notice of termination of this Agreement or Statement of Work, Contractor shall follow any instructions of NCTCOG respecting work stoppage. Contractor shall cooperate with NCTCOG and NCTCOG’s designees to provide for an orderly conclusion of the Services. Contractor shall use its best efforts to minimize the amount of any non-cancelable obligations and shall assign any contracts related thereto to NCTCOG, or NCTCOG’s designee, at its request. If NCTCOG elects to continue any activities underlying a terminated Statement of Work after termination, Contractor shall cooperate with NCTCOG

to provide for an orderly transfer of Contractor's responsibilities with respect to such Statements of Work to NCTCOG or its designee. Upon the effective date of any such termination, the Contractor shall submit a final invoice for payment in accordance with Article IV, and NCTCOG shall pay such amounts as are due to Contractor through the effective date of termination. NCTCOG shall only be liable for payment of services rendered before the effective date of termination. If Agreement is terminated, certain reporting requirements identified in this Agreement shall survive termination of this Agreement.

ARTICLE IV COMPENSATION

- 4.1 **Invoices.** Contractor shall submit an invoice to the ordering Participating Entity upon receipt of an executed Purchase Order and after completion of the work, with Net 30 payment terms. Costs incurred prior to execution of this Agreement are not eligible for reimbursement. There shall be no obligation whatsoever to pay for performance of this Agreement from the monies of the NCTCOG or Participating Entities, other than from the monies designated for this Agreement and/or executed Purchase Order. Contractor expressly agrees that NCTCOG shall not be liable, financial or otherwise, for Services provided to Participating Entities.

ARTICLE V RELATIONSHIP BETWEEN THE PARTIES

- 5.1 **Independent Contractor.** It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature and is not to be construed to create a partnership or joint venture or agency relationship between the parties. Neither party shall have the right to act on behalf of the other except as expressly set forth in this Agreement. Contractor will be solely responsible for and will pay all taxes related to the receipt of payments hereunder. No Contractor personnel shall obtain the status of or otherwise be considered a NCTCOG employee by virtue of their activities under this Agreement, and Contractor shall maintain sole responsibility for assignment of its personnel. For the avoidance of doubt, in no event will NCTCOG pay, reimburse, or otherwise be responsible, financially or otherwise, for any insurance, health care, or similar costs or benefits relating to Contractor, its affiliates, or any of their employees, subcontractors, or agents. The rights and obligations of NCTCOG under this Agreement may be exercised or performed on its behalf by one or more of its affiliates.

ARTICLE VI REPRESENTATION AND WARRANTIES

- 6.1 **Representations and Warranties.** Contractor represents and warrants that:
- 6.1.1 As of the Effective Date of this Agreement, it is not a party to any oral or written contract or understanding with any third party that is inconsistent with this Agreement and/or would affect the Contractor's performance under this Agreement or that will in any way limit or conflict with its ability to fulfill the terms of this Agreement. The Contractor further represents that it will not enter into any such agreement during the Term of this Agreement;
 - 6.1.2 NCTCOG is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from, or ineligible for, participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor and its subcontractors shall include a statement of compliance with Federal and State Debarment and suspension regulations in all Third-party contracts.
 - 6.1.3 Contractor shall notify NCTCOG if Contractor, or any of the Contractor's contractors, becomes debarred or suspended during the performance of this Agreement. Debarment or suspension of the Contractor or any of Contractor's contractors may result in immediate termination of this Agreement.

- 6.1.4 Contractor will provide to NCTCOG, with each deliverable to be provided under this Agreement, a written summary sheet listing any third party software or other intellectual property contained within the deliverable, if any, together with licenses permitting NCTCOG to use such third-party software and intellectual property in connection with its use of the deliverable and the terms, conditions, and status of the license of such software and intellectual property. Except for the third party software and intellectual property described in the written summary provided to NCTCOG in connection with the preceding sentence, the Contractor warrants and represents that all work product created under this Agreement shall be original work of the Contractor or in the public domain and shall not infringe any copyright, trademark, trade secret, patent or other Intellectual Property right of any third party;
- 6.1.5 Contractor and its employees and subcontractors have all of the necessary qualifications, licenses, permits, and/or registrations to perform the Services in accordance with the terms and conditions of this Agreement, and at all times during the Term, all such qualifications, licenses, permits, and/or registrations shall be current and in good standing; and
- 6.1.6 Contractor shall, and shall cause its representatives to, comply with all municipal, state, and federal laws, rules, and regulations applicable to the performance of the Contractor's obligations under this Agreement.

ARTICLE VII CONFIDENTIAL INFORMATION AND OWNERSHIP

- 7.1 **Confidential Information.** Contractor acknowledges that any information it or its employees, agents, or subcontractors obtain regarding the operation of NCTCOG, its products, services, policies, customer, personnel, and other aspect of its operation ("Confidential Information") is proprietary and confidential, and shall not be revealed, sold, exchanged, traded, or disclosed to any person, company, or other entity during the period of the Contractor's retention hereunder or at any time thereafter without the express written permission of NCTCOG.

Notwithstanding anything in this Agreement to the contrary, Contractor shall have no obligation of confidentiality with respect to information that (i) is or becomes part of the public domain through no act or omission of Contractor; (ii) was in Contractor's lawful possession prior to the disclosure and had not been obtained by Contractor either directly or indirectly from the NCTCOG; (iii) is lawfully disclosed to Contractor by a third party without restriction on disclosure; (iv) is independently developed by Contractor without use of or reference to the NCTCOG's Confidential Information; or (v) is required to be disclosed by law or judicial, arbitral or governmental order or process, provided Contractor gives the NCTCOG prompt written notice of such requirement to permit NCTCOG to seek a protective order or other appropriate relief.

- 7.2 **Ownership.** All final documents, reports, information, or materials are and shall at all times be and remain, upon payment of Contractor's invoices, the property of NCTCOG and shall not be subject to any restriction or limitation on their future use by, or on behalf of, NCTCOG, except otherwise provided herein.

ARTICLE VIII GENERAL PROVISIONS

8.1 **Notices.** All notices from one Party to another Party regarding this Agreement shall be in writing and delivered to the addresses shown below:

If to NCTCOG: North Central Texas Council of Governments
P.O. Box 5888
Arlington, TX
76005-5888
Attention: Chris
Calhoun
(817) 704-5677
ccalhoun@nctcog.org

If to Contractor: Electronic Recyclers International, Inc.
7815 N. Palm Avenue Ste
140,
Fresno, California 93711
Attention: Kevin Dillon
(559) 442-3990
Kevin.dillon@eridirect.com

The above contact information shall be updated as necessary and shall not require an amendment to the Agreement.

8.2 **Change in Company Name or Ownership.** The Contractor shall notify NCTCOG, in writing, of a change in company name, ownership. Notification must be accompanied by supporting legal documentation, such as an updated W-9, documents filed with the state indicating such change, a copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

8.3 **Indemnification.** Contractor shall defend, indemnify, and hold harmless NCTCOG, NCTCOG's affiliates, and any of their respective directors, officers, employees, agents, subcontractors, successors, and assigns from any and all suits, actions, claims, demands, judgments, liabilities, losses, damages, costs, and expenses (including reasonable attorneys' fees and court costs) (collectively, "Losses") arising out of or relating to: (i) Services performed and carried out pursuant to this Agreement; (ii) breach of any obligation, warranty, or representation in this Agreement, (iii) the negligence or willful misconduct of Contractor and/or its employees or subcontractors; or (iv) any infringement, misappropriation, or violation by Contractor and/or its employees or subcontractors of any right of a third party; provided, however, that Contractor shall have no obligation to defend, indemnify, or hold harmless to the extent any Losses are the result of NCTCOG's gross negligence or willful misconduct.

8.4 **Limitation of Liability.** In no event shall either party be liable for special, consequential, incidental, indirect or punitive loss, damages or expenses arising out of or relating to this Agreement, whether arising from a breach of contract or warranty, or arising in tort, strict liability, by statute or otherwise, even if it has been advised of their possible existence or if such loss, damages or expenses were reasonably foreseeable.

Notwithstanding any provision hereof to the contrary, neither party's liability shall be limited by this Article with respect to claims arising from breach of any confidentiality obligation, arising from such party's infringement of the other party's intellectual property rights, covered by any express indemnity obligation of such party hereunder, arising from or with respect to injuries to persons or damages to tangible property, or arising out of the gross negligence or willful misconduct of the party or its employees.

- 8.5 **Conflict of Interest.** During the Term of this Agreement, neither party shall without the prior written consent of the other, directly nor indirectly, whether for its own account or with any other persons or entity whatsoever, employ, solicit to employ or endeavor to entice away any person who is employed by the other party.
- 8.6 **Force Majeure.** In the event that either party hereto is prevented from or delayed in the performance of any of its obligations hereunder by reason of force majeure, defined as acts of God, war, riots, storms, fires or any other cause whatsoever beyond the reasonable control of the party, the party so prevented or delayed shall be excused from the performance of any such obligation to the extent and during the period of such prevention or delay. The period of time applicable to such requirement shall be extended for a period of time equal to the period of time such Party was delayed. Each Party must inform the other in writing within reasonable time of the existence of such force majeure.
- 8.7 **Ability to Perform.** Contractor agrees promptly to inform NCTCOG of any event or change in circumstances which may reasonably be expected to negatively affect the Contractor's ability to perform its obligations under this Agreement in the manner contemplated by the parties.
- 8.8 **Availability of Funding.** This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited by the receipt and availability of funds which are received from the funding agencies by NCTCOG dedicated for the purposes of this Agreement.
- 8.9 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, United States of America. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Tarrant County, Texas.
- 8.10 **Waiver.** Failure by either party to insist on strict adherence to any one or more of the terms or conditions of this Agreement, or on one or more occasions, will not be construed as a waiver, nor deprive that party of the right to require strict compliance with the same thereafter.
- 8.11 **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all other agreements, discussions, representations or understandings between the parties with respect to the subject matter hereof. No amendments hereto, or waivers or releases of obligations hereunder, shall be effective unless agreed to in writing by the parties hereto.
- 8.12 **Assignment.** This Agreement may not be assigned by either Party without the prior written consent of the other Party.
- 8.13 **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intents of the Parties.
- 8.14 **Amendments.** This Agreement may be amended only by a written amendment executed by both Parties, except that any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in Federal and State law or regulations or required by the funding source, are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.
- 8.15 **Dispute Resolution.** The parties to this Agreement agree to the extent possible and not in contravention of any applicable State or Federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration or any other local dispute mediation process before resorting to litigation.
- 8.16 **Insurance.** At all times during the Term of this Agreement, the Contractor shall procure, pay for, and maintain, with approved insurance carriers, the minimum insurance requirements set forth below,

and shall require all contractors and sub-subcontractors performing work for which the same liabilities may apply under this Agreement to do likewise. The Contractor may cause the insurance to be effected in whole or in part by the contractors or sub-subcontractors under their contracts.

8.16.1. Workers' Compensation: Coverage and limits as required by law

8.16.2. Commercial General Liability:

a. Minimum Required Limits: \$1,000,000 per occurrence; \$3,000,000 general aggregate

b. Commercial General Liability policy shall include:

- i) Coverage A: Bodily injury and property damage
- ii) Coverage B: Personal and Advertising Injury liability
- iii) Coverage C: Medical Payments
- iv) Products: Completed Operations
- v) Fire Legal Liability

c. Policy coverage must be on an "occurrence" basis using CGL forms as approved by the Texas State Board of Insurance.

d. All other endorsements shall require prior approval by the NCTCOG.

8.16.3. Comprehensive Automobile/Truck Liability: Coverage shall be provided for all owned, hired and non- owned vehicles.

a. Minimum required Limit: \$1,000,000 combined single limit.

8.16.4. Professional Liability:

a. Minimum Required Limits:

- i) \$1,000,000 Each Claim;
- ii) 1,000,000 Policy Aggregate

ARTICLEIX ADDITIONAL REQUIREMENTS

- 9.1 **Equal Employment Opportunity.** Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. Contractor shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, gender identity, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 9.2 **Davis-Bacon Act.** Contractor agrees to comply with all applicable provisions of 40 USC § 3141 – 3148.
- 9.3 **Contract Work Hours and Selection Standards.** Contractor agrees to comply with all applicable provisions of 40 USC § 3701 – 3708 to the extent this Agreement indicates any employment of mechanics or laborers.
- 9.4 **Rights to Invention Made Under Contract or Agreement.** Contractor agrees to comply with all applicable provisions of 37 CFR Part 401.
- 9.5 **Clean Air Act, Federal Water Pollution Control Act, and Energy Policy Conservation Act.** Contractor agrees to comply with all applicable provisions of the Clean Air Act under 42 USC § 7401 – 7671, the Energy Federal Water Pollution Control Act 33 USC § 1251 – 1387, and the Energy Policy Conservation Act under 42 USC § 6201.

- 9.6 **Debarment/Suspension.** Contractor is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor and its subcontractors shall comply with the Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions, which is included as Appendix A.
- 9.7 **Restrictions on Lobbying.** Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. See Appendix B. Such disclosures are forwarded from tier-to-tier up to the non-Federal award.
- 9.8 **Procurement of Recovered Materials.** Contractor agrees to comply with all applicable provisions of 2 CFR§200.322.
- 9.9 **Drug-Free Workplace.** Contractor shall provide a Drug Free Workplace in compliance with the Drug Free Workplace Act of 1988.
- 9.10 **Texas Corporate Franchise Tax Certification.** Pursuant to Article 2.45, Texas Business Corporation Act, state agencies may not contract with for profit corporations that are delinquent in making state franchise tax payments.
- 9.11 **Civil Rights Compliance**

Nondiscrimination: Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 45 CFR Part 21.

Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, sex, or national origin.

Information and Reports: Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor will so certify to NCTCOG as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of Contractor's noncompliance with the non-discrimination provisions of this Agreement, NCTCOG will impose such sanctions as it or the State may determine to be appropriate, including, but not limited to: withholding of payments to the Contractor under this Agreement until the Contractor compiles and/or cancelling, terminating or suspension of this Agreement, in whole or in part.

Incorporation of Provisions: Contractor will include the provisions of the paragraphs listed above, in this section, in every subcontract, including procurement of materials and leases of equipment, unless exempt

by the Acts, the Regulations and directives issued pursuant thereto. Contractor will take such action with respect to any subcontract or procurement as NCTCOG or the State, may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, Contractor may request the State to enter into such litigation to protect the interests of the State. In addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

9.12 **Disadvantaged Business Enterprise Program Requirements**

Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of contracts. Each sub-award or sub-contract must include the following assurance: *The Contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of these contracts. Failure by the Contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

9.13 **Pertinent Non-Discrimination Authorities**

During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- b. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- c. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- e. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- f. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).
- h. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- i. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed.

Reg. at 74087 to 74100).

- i. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

9.14 Ineligibility to Receive State Grants or Loans, or Receive Payment on State Contracts

In accordance with Section 231.006 of the Texas Family Code, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five (25) percent is not eligible to:

- a. Receive payments from state funds under a contract to provide property, materials or services; or
- b. Receive a state-funded grant or loan.

By signing this Agreement, the Contractor certifies compliance with this provision.

9.15 Prohibition on BoyCotting Israel.

If contractor is required to make a certification pursuant to Section 2271 of the Texas Government Code, contractor certifies that contractor does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation.

9.16 Certification Regarding Disclosure of Conflict of Interest.

The undersigned certifies that, to the best of his or her knowledge or belief, that:

“No employee of the contractor, no member of the contractor’s governing board or body, and no person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall participate in any decision relating to this contract which affects his/her personal pecuniary interest.

Executives and employees of contractor shall be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering the contract, shall exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates. When it is in the public interest for the contractor to conduct business with a friend or associate of an executive or employee of the contractor, an elected official in the area or a member of the North Central Texas Council of Governments, a permanent record of the transaction shall be retained.

Any executive or employee of the contractor, an elected official in the area or a member of the NCTCOG, shall not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed in whole or part by contractor or Department. Supplies, tools, materials, equipment or services purchased with contract funds shall be used solely for purposes allowed under this contract. No member of the NCTCOG shall cast a vote on the provision of services by that member (or any organization which that member represents) or vote on any matter which would provide a direct or indirect financial benefit to the member or any business or organization which the member directly represents”.

No officer, employee or paid consultant of the contractor is a member of the NCTCOG.

No officer, manager or paid consultant of the contractor is married to a member of the NCTCOG.

No member of NCTCOG directly owns, controls or has interest in the contractor.

The contractor has disclosed any interest, fact, or circumstance that does or may present a potential conflict of interest.

No member of the NCTCOG receives compensation from the contractor for lobbying activities as defined in Chapter 305 of the Texas Government Code.

Should the contractor fail to abide by the foregoing covenants and affirmations regarding conflict of interest, the contractor shall not be entitled to the recovery of any costs or expenses incurred in relation to the contract and shall immediately refund to the North Central Texas Council of Governments any fees or expenses that may have been paid under this contract and shall further be liable for any other costs incurred or damages sustained by the NCTCOG as it relates to this contract.

9.17 **Internal Compliance Program.**

NCTCOG has adopted an Internal Compliance Program to prevent waste, fraud, or abuse. Contractors, agents, and volunteers can report suspected waste, fraud, or abuse at: <https://www.nctcog.org/agency-administration/compliance-portal>. Additional information regarding the Internal Compliance Program is available at the previous web address.

9.18 **Certification of Fair business Practices**

The submitter affirms that the submitter has not been found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year. The submitter further affirms that no officer of the submitter has served as an officer of any company found guilty of unfair business practices in a judicial or state agency administrative during the preceding year.

9.19 **Certification of Good Standing Texas Corporate Franchise Tax Certification**

Pursuant to Article 2.45, Texas Business Corporation Act, state agencies may not contract with for profit corporations that are delinquent in making state franchise tax payments. The undersigned authorized representative of the corporation making the offer herein certified that the following indicated Proposal is true and correct and that the undersigned understands that making a false Proposal is a material breach of contract and is grounds for contract cancellation.

9.20 **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** Pursuant to Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, NCTCOG is prohibited from using federal funds to procure, contract with entities who use, or extend contracts with entities who use certain telecommunications and video surveillance equipment or services provided by certain Chinese controlled entities. The CONTRACTOR agrees that it is not providing NCTCOG with or using telecommunications and video surveillance equipment and services as prohibited by 2 CFR §200.216 and §200.471. Contractor shall certify its compliance through execution of the “Prohibited Telecommunications and Video Surveillance Services or Equipment Certification,” which is included as Appendix C of this Contract. The Contractor shall pass these requirements down to any of its subcontractors funded under this Agreement. The CONTRACTOR shall notify NCTCOG if the CONTRACTOR cannot comply with the prohibition during the performance of this Contract.

9.21 **Discrimination Against Firearms Entities or Firearms Trade Associations**

Pursuant to Texas Local Government Code Chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who discriminate against firearm and ammunition industries. NCTCOG is prohibited from contracting with entities, or extend contracts with entities who have practice, guidance, or directive that discriminates against a firearm entity or firearm trade association. Proposers shall certify its compliance with these requirements as part of their proposal response by completing the “Discrimination Against Firearms Entities or Firearms Trade Associations Certification” included with the RFP Document. Failure to submit the required certification statement may be grounds for finding the proposal nonresponsive.

9.22 **Boycotting of Certain Energy Companies**

Pursuant to Texas Local Government Code Chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who boycott certain energy companies. NCTCOG is prohibited from contracting with entities or extend contracts with entities that boycott energy companies. Proposers shall certify its compliance with these requirements as part of their proposal response by completing the “Boycotting of Certain Energy Companies Certification” included with the RFP Document. Failure to submit the required certification statement may be grounds for finding the proposal nonresponsive.

9.23 Domestic Preference for Procurements

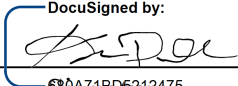
As appropriate and to the extent consistent with law, the PROVIDER should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Consistent with §200.322, the following items shall be defined as: “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Proposers shall certify its compliance with these requirements as part of their proposal response by completing the certifications included with the RFP document “Attachments” section. Failure to submit the required certification statement may be grounds for finding the proposal nonresponsive.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Electronic Recycler International, Inc.

North Central Texas Council of Governments

DocuSigned by:

 2/15/2024
 Signature Date

Kevin Dillon
 Printed Name

CMO
 Title

DocuSigned by:

 4/1/2024
 Signature Date

R. Michael Eastland
 Executive Director

APPENDIX A.1 SCOPE OF SERVICES AND SCHEDULE OF PRICING

Cost Proposal/Disposal Method - ONE DAY EVENT

Category	Handling/Packaging**	\$/Pound	Extended Price	Revenue for End User
Televisions *	Palletized	\$0.25/lb.	~43 lbs./unit	\$10.75
Computer Monitors *	Palletized	\$0.25/lb.	~30 lbs./unit	\$7.50
Peripherals *	CY Box	\$0.40/lb.	1 lb./unit	\$0.40
Facsimile Machines	CY Box	\$0.55/lb.	16 lbs./unit	\$8.80
Video Game Systems *	CY Box	\$0.40/lb.	6 lbs./unit	\$2.40
Consumer Electronics (VCRs, stereos, telephones, DVD players, tape recorders/players, games, calculators, etc.)	CY Box	\$0.45/lb	10 lbs./unit	\$4.50
Central Processing Units *	Palletized	\$0.25/lb.	25 lbs./unit	\$6.25
Laptops, Notebooks, and Tablets *	CY Box	\$0.25/lb.	7 lbs./unit	\$1.75
Cellular Phones (without batteries)	CY Box	\$0.25/lb.	1 lb./unit	\$0.25

* State Eligible Material

**Space has been provided to list multiple Handling/Packaging methods for these materials. Handling/Packaging methods may include, but are not limited to, Loose-pack, Cubic Yard Box, Pallet, Other, etc. If using "Other" method please explain method in detail.

Mobilization	One-Day Collection Events	
	0-500 Cars	\$4,000.00
	501-1000 Cars	\$8,000.00
	1001-1500 Cars	\$26,000.00
	1501-2000 Cars	\$45,000.00
	Over 2001 Cars	\$53,000.00

Labor (per hour - if charged separately)

Technicians	
Traffic Control	
Laborers	
Site Security	
Other (specify)	

Supplies (unit cost - if charged separately)

Cubic Yard Boxes	\$	
Plastic sheeting	\$	
Pallets	\$	
Pallet jack	\$	
Shrink wrap	\$	
Tents	\$	
Tables and chairs	\$	
Forklift	\$	
Signage	\$	
Traffic control devices and safety cones	\$	
First aid supplies	\$	
Portable restroom facilities	\$	
Other (please indicate)	\$	
Other (please indicate)	\$	
Other (please indicate)	\$	

Transportation

Straight truck/box truck	\$	1,120.00 per truck
Semi truck	\$	1,6800.00 per truck
Fuel Surcharge, if any	\$	
Other (specify)	\$	

Cost Proposal/Disposal Method - PERMANENT FACILITY

Category	Handling/Packaging**	\$/Pound	Extended Price	Revenue for End User
Televisions *	Palletized	\$0.25/lb.	~43 lbs./unit	\$10.75
Computer Monitors *	Palletized	\$0.25/lb.	~30 lbs./unit	\$7.50
Peripherals *	CY Box	\$0.40/lb.	1 lb./unit	\$0.40
Facsimile Machines	CY Box	\$0.55/lb.	16 lbs./unit	\$8.80
Video Game Systems	CY Box	\$0.40/lb.	6 lbs./unit	\$2.40
Consumer Electronics (VCRs, stereos, telephones, DVD players, tape recorders/players, games, calculators, etc.)	CY Box	\$0.55/lb.	10 lbs./unit	\$4.50
Central Processing Units *	Palletized	\$0.25/lb.	25 lbs./unit	\$6.25
Laptops, Notebooks, and Tablets *	CY Box	\$0.25/lb.	7 lbs./unit	\$1.75
Cellular Phones (without batteries)	CY Box	\$0.25/lb.	1 lb./unit	\$0.25

* State Eligible Material

**Space has been provided to list multiple Handling/Packaging methods for these materials. Handling/Packaging methods may include, but are not limited to, Loosepack, Cubic Yard Box, Pallet, Other, etc. If using "Other" method please explain method in detail.

Mobilization Permanent Facility

Labor (per hour - if charged separately)

Technicians	\$65.00
Traffic Control	\$50.00
Laborers	\$50.00
Site Security	\$65.00
Other (specify)	<input type="text"/>

Supplies (unit cost - if charged separately)

Cubic Yard Boxes	\$	28.00
Plastic sheeting	\$	<input type="text"/>
Pallets	\$	7.00
Shrink wrap	\$	30.00

Transportation

Straight truck/box truck	\$	1,120.00 per truck
Semi truck	\$	1,680.00 per truck
Fuel Surcharge, if any	\$	<input type="text"/>
Other (specify)	\$	<input type="text"/>

Cost Proposal/Disposal Method – Community Drop Off

Category	Handling/Packaging**	\$/Pound	Extended Price	Revenue for End User
Televisions *	Palletized	\$0.25/lb.	~43 lbs./unit	\$10.75
Computer Monitors *	Palletized	\$0.25/lb.	~30 lbs./unit	\$7.50
Peripherals *	CY Box	\$0.40/lb.	1 lb./unit	\$0.40
Facsimile Machines	CY Box	\$0.55/lb.	16 lbs./unit	\$8.80
Video Game Systems	CY Box	\$0.40/lb.	6 lbs./unit	\$2.40
Consumer Electronics (VCRs, stereos, telephones, DVD players, tape recorders/players, games, calculators, etc.)	CY Box	\$0.55/lb.	10 lbs./unit	\$4.50
Central Processing Units *	Palletized	\$0.25/lb.	25 lbs./unit	\$6.25
Laptops, Notebooks, and Tablets *	CY Box	\$0.25/lb.	7 lbs./unit	\$1.75
Cellular Phones (without batteries)	CY Box	\$0.25/lb.	1 lb./unit	\$0.25

* State Eligible Material

**Space has been provided to list multiple Handling/Packaging methods for these materials. Handling/Packaging methods may include, but are not limited to, Loosepack, Cubic Yard Box, Pallet, Other, etc. If using "Other" method please explain method in detail.

Mobilization Permanent Facility

Labor (per hour - if charged separately)

Technicians	\$65.00
Traffic Control	\$50.00
Laborers	\$50.00
Site Security	\$65.00
Other (specify)	<input type="text"/>

COST PROPOSAL FOR ASSET DISPOSITION

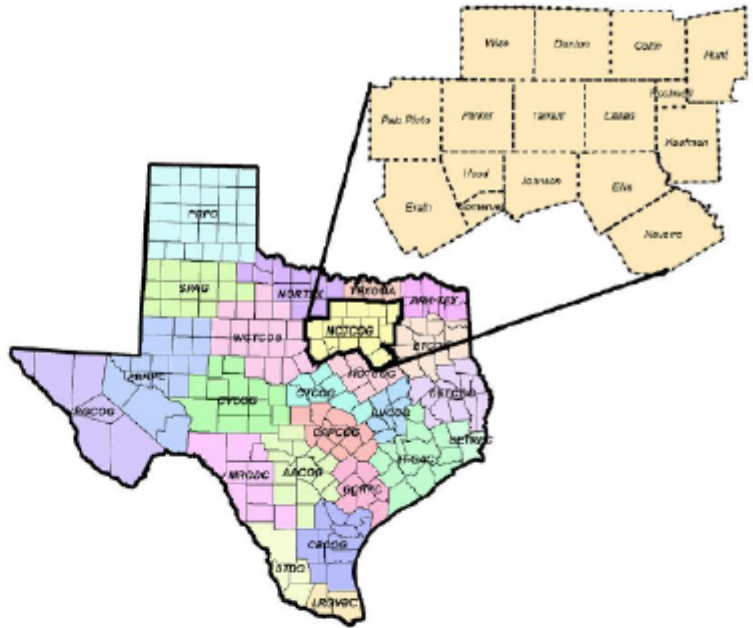
Please include fees and requested information for the services listed below. List additional services and associated fees, both optional or required, as part of Asset Disposition.

Asset Processing Services	Unit of Measure	Fee	Type of Devices	Comments
Testing	Each	\$4.00	Servers, Desktops, Laptops, Display Devices, Networking equipment, Mobile devices, Memory, etc.	Please specify any difference fees for separate devices
Sanitization / Sticker Removal (if needed)	Each	\$1.50		
Hard drive wipe	Each	\$6.00		
Assumptions and Requirements				
<ul style="list-style-type: none"> Equipment is to be disposed of by Vendor or a pre-authorized subcontractor Standard customer reporting included with each service (e.g., asset reporting to include make, model, part number, serial number, asset tag, configuration, condition, and grading; Certificate of Destruction, Settlement Document, etc.) Vendor shall take title to and sole custody of the materials after Vendor has picked up or City /Entity has delivered equipment to Vendor's facility All End User corporate or identifying marks must be removed. Items not qualified for resale will be processed as end-of-life materials and will not incur Asset Processing Service fees Any items with resale value will earn a pre-defined rebate for the City/entity based on a revenue sharing model. This includes whole units as well as harvested components. 				

Proposed Revenue Share	Proposed Rebate Percent (%)
Vendor will issue a Rebate based on a percentage of the cash value generated from the resale of Equipment after asset processing fees are deducted. This Rebate will be credited to the End User's account with Vendor on a quarterly basis and may be used to offset future invoices. The Rebate Share, less service fees, will be paid out or credited within thirty (30) days of resale. Processor will provide settlement documentation with all required certifications.	50%

Please include additional financial incentives or other value-added services below:

APPENDIX A.2



County	Willing/Able to Service
Collin	Yes
Dallas	Yes
Denton	Yes
Ellis	Yes
Erath	Yes
Hood	Yes
Hunt	Yes
Johnson	Yes
Kaufman	Yes
Navarro	Yes
Palo Pinto	Yes
Parker	Yes
Rockwall	Yes
Somervell	Yes
Tarrant	Yes
Wise	Yes

**APPENDIX B
DEBARMENT CERTIFICATION**

Kevin Dillon _____ being duly

(Name of certifying official)

sworn or under penalty of perjury under the laws of the United States, certifies that neither

ERI _____, nor its principals

(Name of lower tier participant)


are presently:

- debarred, suspended, proposed for debarment,
- declared ineligible,
- or voluntarily excluded from participation in this transaction by any federal department or agency

Where the above identified lower tier participant is unable to certify to any of the above statements in this certification, such prospective participant shall indicate below to whom the exception applies, the initiating agency, and dates of action.

Exceptions will not necessarily result in denial of award but will be considered in determining contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

EXCEPTIONS:

DocuSigned by:


6804718D5212475

Signature of Certifying Official

CMO

Title
2/15/2024

Date of Certification

Form 1734
Rev.10-91
TPFS

APPENDIX C RESTRICTIONS ON LOBBYING

Section 319 of Public Law 101-121 prohibits recipients of federal contracts, grants, and loans exceeding \$100,000 at any tier under a federal contract from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. Section 319 also requires each person who requests or receives a federal contract or grant in excess of \$100,000 to disclose lobbying.

No appropriated funds may be expended by the recipient of a federal contract, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any federal executive department or agency as well as any independent regulatory commission or government corporation, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

As a recipient of a federal grant exceeding \$100,000, NCTCOG requires its subcontractors of that grant to file a certification, set forth in Appendix B.1, that neither the agency nor its employees have made, or will make, any payment prohibited by the preceding paragraph.

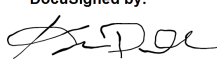
Subcontractors are also required to file with NCTCOG a disclosure form, set forth in Appendix B.2, if the subcontractor or its employees have made or have agreed to make any payment using nonappropriated funds (to include profits from any federal action), which would be prohibited if paid for with appropriated funds.

LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

DocuSigned by:


Signature 680A71BD5212475...

CMO

Title

ERI

Agency

2/15/2024

Date

**APPENDIX D
ATTESTATION OF CONTRACTS NULLIFYING ACTIVITY**

The following provisions are mandated by Federal and/or State of Texas law. Failure to certify to the following will result in disqualification of consideration for contract. Entities or agencies that are not able to comply with the following will be ineligible for consideration of contract award.

PROHIBITED TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT CERTIFICATION

This Contract is subject to the Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, for prohibition on certain telecommunications and video surveillance or equipment.

Public Law 115-232, Section 889, identifies that restricted telecommunications and video surveillance equipment or services (e.g. phones, internet, video surveillance, cloud servers) include the following:

- A) Telecommunications equipment that is produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliates of such entities).
- B) Video surveillance and telecommunications equipment produced by Hytera Communications Corporations, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliates of such entities).
- C) Telecommunications or video surveillance services used by such entities or using such equipment.
- D) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, Director of the National Intelligence, or the Director of the Federal Bureau of Investigation reasonably believes to be an entity owned or controlled by the government of a covered foreign country.

The entity identified below, through its authorized representative, hereby certifies that no funds under this Contract will be obligated or expended to procure or obtain telecommunication or video surveillance services or equipment or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system prohibited by 2 CFR §200.216 and §200.471, or applicable provisions in Public Law 115-232 Section 889.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of 2 CFR §200.216 and §200.471, or applicable regulations in Public Law 115-232 Section 889.

SIGNATURE OF AUTHORIZED PERSON:

DocuSigned by:


NAME OF AUTHORIZED PERSON:

680A71BD5212475...
Kevin Dillon

NAME OF COMPANY:

ERI

DATE:

2/15/2024

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of 2 CFR §200.216 and §200.471, or applicable regulations in Public Law 115-232 Section 889.

SIGNATURE OF AUTHORIZED PERSON:

NAME OF AUTHORIZED PERSON:

NAME OF COMPANY:

DATE:

DISCRIMINATION AGAINST FIREARMS ENTITIES OR FIREARMS TRADE ASSOCIATIONS

This contract is subject to the Texas Local Government Code chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who discriminate against firearm and ammunition industries.

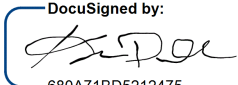
TLGC chapter 2274, Subtitle F, Title 10, identifies that “discrimination against a firearm entity or firearm trade association” includes the following:

- A) means, with respect to the entity or association, to:
 - I. refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; and
 - II. refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or
 - III. terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

- B) An exception to this provision excludes the following:
 - I. contracts with a sole-source provider; or
 - II. the government entity does not receive bids from companies who can provide written verification.

The entity identified below, through its authorized representative, hereby certifies that they have no practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and that they will not discriminate during the term of the contract against a firearm entity or firearm trade association as prohibited by Chapter 2274, Subtitle F, Title 10 of the Texas Local Government Code.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of Chapter 2274, Subtitle F, Title 10.

SIGNATURE OF AUTHORIZED PERSON:	
NAME OF AUTHORIZED PERSON:	<hr/> Kevin Dillon
NAME OF COMPANY:	<hr/> ERI
DATE:	<hr/> 2/15/2024

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of Chapter 2274, Subtitle F, Title 10.

SIGNATURE OF AUTHORIZED PERSON:	<hr/>
NAME OF AUTHORIZED PERSON:	<hr/>
NAME OF COMPANY:	<hr/>
DATE:	<hr/>

BOYCOTTING OF CERTAIN ENERGY COMPANIES

This contract is subject to the Texas Local Government Code chapter 809, Subtitle A, Title 8, prohibiting contracts with companies who boycott certain energy companies.

TLGC chapter Code chapter 809, Subtitle A, Title 8, identifies that "boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

- I. engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; and
- II. does business with a company described by paragraph (I).

The entity identified below, through its authorized representative, hereby certifies that they do not boycott energy companies, and that they will not boycott energy companies during the term of the contract as prohibited by Chapter 809, Subtitle A, Title 8 of the Texas Local Government Code.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of Chapter 809, Subtitle A, Title 8.

SIGNATURE OF AUTHORIZED PERSON:

DocuSigned by:

 680A71BD5212475...

NAME OF AUTHORIZED PERSON:

Kevin Dillon

NAME OF COMPANY:

ERI

DATE:

2/15/2024

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of Chapter 809, Subtitle A, Title 8.

SIGNATURE OF AUTHORIZED PERSON:

NAME OF AUTHORIZED PERSON:

NAME OF COMPANY:

DATE:
