

City of Scottsbluff, Nebraska

Monday, June 16, 2014

Regular Meeting

Item Reports2

Council to consider an agreement with Electronic Recyclers International, Inc. for the collection of electronics and authorize the Mayor to execute the agreement.

Staff Contact: Nathan Johnson, Assistant City Manager



Electronic Recyclers International, Inc.[®]

CONFIDENTIAL

As of May 12th, 2014

PARTIES:	
ERI:	Electronic Recyclers, Inc.
Customer:	City of Scottsbluff, NE
e-WASTE SERVICES AND PRICING	
Services:	<ul style="list-style-type: none">Electronic Waste Recycling Services
Materials/Processing Fees:	<ul style="list-style-type: none">(\$0.18/lb) charge to Customer for Display Devices to include TV's and Monitors (CRT, LCD, DLP, Plasma, Projection LED)\$0.02/lb credit to Customer for General e-waste (printers, fax, stereo, mice, keyboards, peripheral equipment and household electronic waste)0.20/lb credit to Customer for Complete computers, laptops, cell phones, tablets, serversOther:<ul style="list-style-type: none">Alkaline: \$1.27/lb charge to CustomerNiCad: No ChargeNiMH: No ChargeLithium Ion Laptop: \$1.25/lb credit to CustomerLithium Rechargeable: \$0.25/lb credit to CustomerPrimary Lithium(Button Battery) \$6.00/lb charge to Customer
Freight:	<ul style="list-style-type: none">Material to be delivered by CustomerIf ERI schedules transportation, freight will be a pass through cost to City of Scottsbluff
Packaging Supplies (shrink wrap, Gaylord boxes, pallets):	Packaging supplies are available for purchase for the following costs, plus additional freight rates if packaging supplies delivered by ERI: <ul style="list-style-type: none">Pallets: \$4.00 eachGaylord boxes: \$11.50 eachStretch Film: \$23.00 each
Payment Terms:	Payment shall be thirty (30) days from date of invoice.
Term of Agreement:	This Agreement shall commence on the date of mutual execution hereof and shall remain in effect for a period of one year (the "Initial Term"). Thereafter, the term shall be extended pursuant to the Terms and Conditions hereof.

The Parties hereby agrees to the forgoing pricing schedule, ERI's standard terms and conditions:

Customer: _____

ERI: Electronic Recyclers, Inc.

By: _____

By: _____

Name: _____

Name: Kevin J. Dillon

Its: _____

Its: Chief Marketing Officer

Date: _____

Date: _____

ERI Initials _____

Customer Initials _____

Page 1



Customer Information:

Address: 2525 Circle Drive Scottsbluff, NE 69361
Attn: Nathan Johnson
Phone: 308-630-6202
Email: njohnson@scottsbluff.org

ERI Information:

Address: 3250 Abilene Street Aurora, CO 80011
ERI Contact: Matt McLaughlin
Phone Number: 303-522-9672
Email: mmclaughlin@electronicrecyclers.com

TERMS AND CONDITIONS

ALL E-WASTE SERVICES ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

In consideration of the covenants and undertakings of the parties hereto and other good and valuable consideration, the receipt of which being hereby acknowledged, the parties hereto agree to the following:

1. Services. Upon the terms and subject to the conditions set forth in this Agreement, Customer hereby engages ERI on an exclusive basis as an independent contractor to render exclusive electronic recycling services with respect to the material set forth above.

a. ERI shall dismantle, shred, physically destroy, and/or recycle all e-Waste collected by Customer and provided to ERI using standard methods approved in the industry and shall fully comply with all applicable laws, rules, regulations, certificates, standards, orders and ordinances, including R2 and e-Stewards standards, in conjunction with the collection, processing, recycling and/or disposal of e-Waste, their components and any other materials collected in conjunction therewith.

b. ERI shall inspect the shipment and delivery receipt upon acceptance of each load to ensure that the receipt and shipment documentation accurately reflect the composition of materials in each load. ERI shall inspect all packages and skids-pallets, when applicable, to confirm that the correct e-Waste have been received. ERI shall advise Customer of any discrepancies via email at the following address: johnson@scottsbluff.org

c. ERI may visually and manually screen each load for hazardous components. ERI shall not be required to accept any of the following materials for processing: liquids, chemicals, oils, radioactive devices, or biological or infectious waste. ERI shall not be required to accept for processing: batteries, fluorescent bulbs, and/or dry powder substances

and to the extent any hazardous components or unauthorized waste are sent by Customer to ERI, ERI may return such items to Customer for proper disposal.

d. ERI shall have the right to sell into global markets any commodities generated from recycling e-Waste so long as permitted under applicable laws. These markets include, but are not limited to, North America, Europe, South America, and Asia. Any such sale by ERI shall conform to the export control laws and regulations of the United States

2. Term and Termination. The Agreement will automatically renew for consecutive one (1) year terms ("Subsequent Term") upon the expiration of the Initial Term unless (i) a written notice of non-renewal is given by either Party to the other Party at least thirty (30) calendar days prior to the expiration of the term then in effect or (ii) the Agreement is otherwise terminated by either Party with or without cause upon thirty (30) days' prior written notice to the other Party. Pricing and volumes shall be agreed upon for each subsequent year in writing between the parties

3. Payment. In the event of a dispute with respect to such invoice, Customer shall provide written notice of such dispute to ERI, together with any undisputed amounts owed, on or before the due date for such payments.

4. Governing Law. The Agreement shall be governed by and construed in accordance with the internal laws of the State of Nebraska applicable to agreements made and to be performed entirely within such state, without regard to the conflicts of law principles of such state.

5. Indemnification. Each party agrees to indemnify, save harmless, and defend the other, its affiliates, officers, directors, shareholders, employees and agents (each an "indemnitee") from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which an indemnitee may hereafter incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any personal property, or any violation of governmental laws, regulations, or order to the

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Electronic Recyclers International, Inc.[®]

extent caused by the other's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the other, its agents, employees or subcontractors in the performance of this Agreement. The obligations described in this paragraph shall survive termination/expiration of this Agreement.

6. Limitation of Remedies, Liability and Damages. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

7. Force Majeure. If ERI is prevented from complying, either totally or in part, with any of the terms or provisions of this Agreement by reason of fire, flood, storm, strike, lockout or other labor trouble, any law, order, proclamation, regulation, ordinance, demand or requirement of any governmental authority, riot, war, rebellion or other causes beyond the reasonable control of ERI, or other acts of God, then upon written notice to Customer, the affected provisions and/or other requirements of this Agreement shall be suspended during the period of such disability and ERI shall have no liability to Customer in connection therewith. ERI shall use reasonable efforts to remove the disability within thirty (30) calendar days of giving notice

8. ERI Insurance Policies. ERI has the following policies in place:

Travelers Insurance Company- AM Best Rated A+ 15

1. Commercial General Liability- \$1,000,000 per occurrence/ \$2,000,000 aggregate
2. Commercial Auto Insurance- \$1,000,000 Combined Single Limit
3. Workers Compensation- All States, Statutory Limits

4. Commercial Excess Liability- Limits available upon request

Endurance American Specialty Insurance Company- AM Best Rated A15

1. Environmental Impairment Liability Policy (Pollution) Limits available upon request

National Union Fire Insurance Company of Pittsburgh (AIG)- AM Best Rated A15

1. Specialty Risk Protector Policy Including- Limits available upon request
 - a. Specialty Professional Liability
 - b. Media Content
 - c. Security and Privacy Liability
 - d. Regulatory Action
 - e. Cyber Extortion

9. Miscellaneous. (a) Assignment; Successors and Assigns. This Agreement is not assignable by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld. A transfer by a party of substantially all of its assets to another entity (whether in one transaction or a series of transactions), or the merger or consolidation of a party with another entity, or the transfer of a controlling ownership interest of such party, will be deemed to constitute an assignment of this Agreement. (b) Waiver. No delay or omission in the exercise of any right or remedy hereunder shall impair such right or remedy or be construed to be a waiver of or acquiescence in any default. (c) Counterparts. This Agreement may be executed in counterparts; each of which will be deemed to be an original, but all of which together will be deemed to be one and the same instrument. This Agreement may also be executed by exchange of facsimile transmissions between the parties. (d) Entire Agreement; Modifications. This Agreement contains the entire agreement and understanding between the parties and supersedes any prior agreements, understandings, or discussions between the parties. It may not hereafter be added to, altered or modified except by written instrument signed by both parties.

ERI Initials _____

Customer Initials _____

Page 3