

AGREEMENT BETWEEN THE COUNTY OF DUPAGE, ILLINOIS AND EWORKS
ELECTRONICS SERVICES, INC. TO PROVIDE ELECTRONICS RECYCLING
TO RESIDENTS OF DUPAGE COUNTY

This is An Electronic Recycling Agreement ("Agreement"), entered into as of June 14, 2016 by and between DuPage County, a body politic and corporate, with principal offices at 421 County Farm Rd., Wheaton, IL 60187 ("Customer") and eWorks Electronics Services, Inc., a New York corporation with offices at 1201 Estes, Elk Grove Village, IL ("Recycler").

WHEREAS, the Illinois General Assembly has granted the County of DuPage ("COUNTY") authority to enter into agreements and do all other acts in relation to the concerns of the County necessary to the exercise of its corporate powers (55 ILCS 5/5-1005); and

WHEREAS, the Local Solid Waste Disposal Act (415 ILCS 10/1 et seq.) recognizes recycling as an important objective for counties in the State of Illinois and requires the development of solid waste management plans to protect the public health and welfare; and

WHEREAS, the COUNTY has developed a solid waste management plan that provides for, among other things, the County to assist with recycling, reuse and waste reduction; and

WHEREAS, the RECYCLER submitted information which will result in the proper recycling of electronics at various locations in the County.

NOW THEREFORE, the COUNTY enters into this AGREEMENT TO provide electronic recycling to residents within the COUNTY:

ELECTRONICS SERVICES, INC. TO PROVIDE ELECTRONIC RECYCLING TO
RESIDENTS OF DU PAGE COUNTY

1.0 RECITALS INCORPORATED

1.1 All recitals set forth above are incorporated herein and made part hereof, the same constituting the factual basis for this AGREEMENT.

1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and

shall not be deemed to constitute part of the AGREEMENT or to affect the construction hereof.

1.3 The exhibits referenced in this Agreement shall be deemed incorporated herein and a part hereof.

2.0 SCOPE OF SERVICES

2.1 RECYCLER will collect, package, transport and recycle electronics from designated locations and provide necessary supplies including but not limited to gaylord boxes and pallets for shipment.

2.2 RECYCLER will comply with all local, state and federal shipping regulations when transporting electronics for recycling.

2.3 RECYCLER will properly sort and dismantle for recycling all electronics not deemed to be reusable and will provide verification of recycling to COUNTY. As described in the response to Request for Proposal P#16-125-BF, RECYCLER will destroy any data on containing devices per Department of Defense and National Institute of Standards and Technology (NIST) standards. Any device where these standards cannot be utilized will be destroyed and recycled.

2.4 The RECYCLER will provide recycling service at a minimum to collection sites listed in the attached Exhibit A (P#16-125-BF) and will review and approve additional sites upon request of COUNTY.

2.5 The RECYCLER shall provide staffing at one-day collection events as noted in Exhibit A that will adequately service the event and ensure traffic flow. Staffing requirements will be determined by agreement with the COUNTY and host community.

2.6 The COUNTY and host municipality shall provide all advertising for collection sites and events.

2.7 To the extent recognized and permitted by law, all rights, title and interests to any material, of whatever nature, delivered to the recycling facility pursuant to this AGREEMENT and accepted by the RECYCLER shall vest in the RECYCLER immediately upon such acceptance.

2.8 Acceptable and non-acceptable items shall be as set forth in Exhibit A. RECYCLER reserves the right to reject an item that is not listed on the acceptable items list and is not listed as an electronic item under the Environmental Protection Act. The COUNTY shall be notified within 60 days of any modification to the acceptable items list.

2.9 RECYCLER takes on generator status for the equipment at the time it is picked up from a collection site. Ownership is immediate at RECYCLER staffed collection events. RECYCLER is not responsible for unacceptable items delivered to drop off sites that are not staffed by the RECYCLER. COUNTY defers responsibility for accepted wastes to the partner site collecting the electronics.

3.0 NOTICE TO PROCEED

3.1 Authorization to proceed with tasks described in Exhibit A shall be given on behalf of the COUNTY by the Director of Public Works & Operations (hereinafter referred to as the "Director"), in the form of a written notice to proceed immediately following the execution of the AGREEMENT.

4.0 TECHNICAL SUBCONTRACTORS

4.1 The prior written approval of the COUNTY shall be required before RECYCLER hires any technical SUBCONTRACTOR(s) to complete COUNTY ordered tasks, which consent shall not be unreasonably withheld.

4.2 The RECYCLER shall supervise any SUBCONTRACTOR(s) hired by the RECYCLER and the RECYCLER shall be solely responsible for any and all work performed by said SUBCONTRACTOR, or SUBCONTRACTOR, in the same manner and with the same liability as if performed by the RECYCLER.

4.3 The RECYCLER shall require any vendor hired for the performance of any work or activity in connection to this AGREEMENT to agree and covenant that said vendor also meets the terms of Sections 8.0 and 12.0 of this AGREEMENT and shall fully comply therewith while engaged by RECYCLER in COUNTY-ordered tasks or work. The RECYCLER shall further require every vendor hired for the performance of any work or activity in connection to this AGREEMENT to agree and covenant to indemnify, defend and

hold the COUNTY harmless to the same extent the RECYCLER is required to do so pursuant to Section 9.0 of this AGREEMENT

5.0 TIME FOR PERFORMANCE

5.1 The RECYCLER shall commence work July 1, 2016 or any time after the COUNTY issues its written Notice to Proceed. The COUNTY is not liable for any work performed before the date of the Notice to Proceed.

5.2 RECYCLER shall provide electronic recycling services through July 1, 2017. The AGREEMENT shall be deemed dated and become effective on the date the last of the Parties signs as set forth below the signature of their duly authorized representatives.

6.0 COMPENSATION

6.1 The RECYCLER will collect, transport, shred, and dismantle electronics at no charge to COUNTY or its partners. The COUNTY shall have no obligation to pay for any of said services.

7.0 DELIVERABLES

7.1 The RECYCLER shall submit all data to the Illinois Environmental Protection Agency as needed pursuant to the Electronics Products Recycling and Reuse Act, 415 ILCS 150/55(c).

7.2 The RECYCLER shall provide data to the County and host community on a quarterly basis starting July 1st due October 31st, . Information shall include a breakdown of all electronics collected by weight separated by applicable category.

7.3 If RECYCLER fails to provide the above information to allow COUNTY to comply with any requirements set forth in the Act that may be applicable, RECYCLER will pay for any and all penalties issued the COUNTY for non-compliance.

8.0 RECYCLER'S INSURANCE

8.1 The RECYCLER shall maintain throughout the term of this AGREEMENT, at its sole expense, insurance coverage described in Exhibit A.

9.0 INDEMNIFICATION

9.1 The RECYCLER shall indemnify, hold harmless and defend the COUNTY, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the RECYCLER'S negligent or willful acts, errors or omissions in its performance under this AGREEMENT.

9.2 Nothing contained herein shall be construed as prohibiting the COUNTY, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, any attorney representing the COUNTY, under this paragraph or paragraph 9.1, is to be appointed a Special Assistant State's Attorney, in accord with the applicable law. The COUNTY'S participation in its defense shall not remove RECYCLER'S duty to indemnify, defend, and hold the COUNTY harmless, as set forth above. Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. RECYCLER'S indemnification of COUNTY shall survive the termination, or expiration, of this AGREEMENT.

9.3 Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. RECYCLER'S indemnification of COUNTY shall survive the termination, or expiration, of this AGREEMENT.

9.4 The COUNTY does not waive, by these indemnity requirements, any defenses or protections under the Local Government and Governmental Employees Tort Liability Act 745 ILCS 10/1, et seq.) or otherwise available to it, or the CONSULTANT, under the law.

10.0 SATISFACTORY PERFORMANCE

AGREEMENT, certifies that it has not been barred from being awarded a contract or subcontract under the Illinois Procurement Code, 30 ILCS 500/1-1, et seq.; and further certifies that it has not been barred from contracting with a unit of State or local government as a result of a violation of the Illinois Criminal Code, 720 ILCS 5/33E-3 or 5/33E-4.

12.3 The RECYCLER, and SUBCONTRACTOR(s), shall comply with the DuPage County Ethics Ordinance and provide any and all documents necessary to ensure compliance with this Ordinance.

13.0 MODIFICATION OR AMENDMENT

13.1 The parties may modify or amend terms of this AGREEMENT only by a written document duly approved and executed by both parties.

13.2 The RECYCLER acknowledges receipt of a copy of the COUNTY'S Purchasing Procedures and Guidelines Ordinance, which is hereby incorporated in this AGREEMENT, and has had an opportunity to review it. RECYCLER agrees to submit changes in accordance with said Ordinance.

14.0 TERM OF THIS AGREEMENT

14.1 The term of this AGREEMENT shall begin on the date the AGREEMENT is fully executed, and shall continue in full force and effect until the earlier of the following occurs:

14.1.a The termination of this AGREEMENT in accordance with the terms of Section 15.0; or

14.1.b July 1, 2017 or to a new date agreed upon in writing by the parties.

14.2 The RECYCLER shall not perform any work under this AGREEMENT after the expiration date set forth in Paragraph 14.1.b, above. The COUNTY is not liable for any work performed after the AGREEMENT'S expiration or termination.

14.3 The COUNTY may extend this AGREEMENT for three additional one-year terms. In any case, this AGREEMENT shall expire no later than July 1, 2020.

15.0 TERMINATION

15.1 Except as otherwise set forth in this AGREEMENT either party shall have the right to terminate this AGREEMENT for any cause upon serving sixty (60) days' prior written notice upon the other party, except in the event of RECYCLER'S insolvency, bankruptcy or receivership, in which case termination shall be effective immediately upon receipt of notice.

15.2 Upon such termination, except for RECYCLER'S obligation under Paragraph 9.0, the liabilities of the parties to this AGREEMENT shall cease, but they shall not be relieved of the duty to perform their obligations up to the date of termination, or to pay for services rendered prior to termination. There shall be no termination expenses except those set forth in paragraph 7.

15.3 Upon termination of this AGREEMENT, all data, reports and documents, if any, required of the COUNTY to submit to the State shall be submitted to the COUNTY within 10 days of termination.

16.0 DEFINITIONS

16.1 All definitions listed in 415 ILCS 150/1 et seq. are hereby made part of this agreement.

17.0 ENTIRE AGREEMENT

17.1 This AGREEMENT, including matters incorporated herein, contains the entire agreement between the parties.

17.2 There are no other covenants, warranties, representations, promises, conditions or understandings, either oral or written, other than those contained herein. In event of a conflict between the terms or conditions of this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.

18.0 ASSIGNMENT

Either party may assign this AGREEMENT provided, however, such assignment shall be first approved, in writing, by the other party.

19.0 SEVERABILITY

19.1 In the event, any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENT shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

20.0 GOVERNING LAW

20.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.

20.2 The venue for resolving any disputes concerning the parties' respective performance, or failure to perform, under this AGREEMENT, shall be the judicial circuit court for DuPage County.

21.0 NOTICES

21.1 All notices required to be given under the terms of this AGREEMENT shall be in writing and either (a) served personally during regular business hours; (b) served by facsimile transmission during regular business hours; or (c) served by certified or registered mail, return receipt requested, properly addressed with postage prepaid. Notices served personally or by facsimile transmission shall be effective upon receipt, and notices served by mail shall be effective upon receipt as verified by the United States Postal Service. Each party may designate a new location for service of notices by serving notice thereof in accordance with the requirements of this Paragraph, and without compliance to the amendment procedures set forth in Section 14.1, above.

Any required notice shall be sent to the following addresses and parties:

FOR THE RECYCLER:

eWorks Electronics Services, Inc.
Attn. Lou Fyda
1201 Estes
Elk Grove Village, IL 60007

FOR THE COUNTY:

DuPage County Building & Zoning Dept.
Environmental Division
421 N. County Farm Rd.
Wheaton, IL 60187

22.0 WAIVER OF/FAILURE TO ENFORCE BREACH

22.1 The parties agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further, the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this AGREEMENT with respect to a different breach.

23.0 FORCE MAJEURE

23.1 Neither party shall be liable for any delay or non-performance of their obligations caused by any contingency beyond their control including but not limited to Acts of God, war, civil unrest, strikes, walkouts, fires or natural disasters.

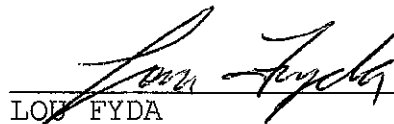
THE PARTIES TO THIS AGREEMENT by their signatures acknowledge they have read and understand this AGREEMENT and intend to be bound by its term.

COUNTY OF DUPAGE

eWorks



NICHOLAS J. KOTTMAYER, P.E.
DIRECTOR OF PUBLIC WORKS
& OPERATIONS



LOU FYDA
VICE PRESIDENT

6/15/2016

DATE

6/8/2016

DATE