



AGREEMENT FOR SINGLE-STREAM CURBSIDE RECYCLING

THIS AGREEMENT is entered into this 15th day of may, 2018 by and between the **CITY OF OCALA**, a Florida municipal corporation ("City") and **WASTE PRO OF FLORIDA, INC.**, a Florida registered corporation (EIN: 59-3701785), with offices at 408 Cypress Road, Ocala, Florida 34472 ("Vendor").

WHEREAS:

The City of Ocala issued an Invitation to Bid on December 15, 2017 for ITB# PWD/17-032: **Solid Waste Disposal and Recycling Services**.

Two (2) bidders responded, and Waste Pro of Florida, Inc. was the lowest responsive and responsible bidder for recycling services. The Vendor was subsequently selected as the intended awardee for these services.

NOW THEREFORE, in consideration of the matters set forth above (which are incorporated herein by reference), the parties hereto agree as follows:

1. **SERVICES.** Vendor will provide all materials, labor, and equipment to provide single stream recycling services for the City as described, and pursuant to the scope of service set forth on the attached **Exhibit A - Scope of Service**, and underlying ITB# PWD/17-032. The contract, and all exhibits, hold precedence over the ITB documents.
2. **COMPENSATION.** City shall pay Vendor for the performance of the work, and in accordance with the contract documents, a total of **\$332.00 per ton (THREE HUNDRED, THIRTY-TWO DOLLARS)**. The City guarantees a minimum 3,800 tons during a 12-month recycling period. Beginning every October 1st of the contract year, if recycling collections are less than 3,800 tons for the preceding 12-month period, the Vendor may invoice City for the difference up to 3,800 tons at the contract price.
3. **ESCALATION.** During each contract year anniversary on October 1st, Vendor may request a CPI-U adjustment applied to the per ton price, but in no case will it exceed 3% yearly. If the CPI-U change is greater than 3% in one year, the difference will carryforward and be applied to the following year for a maximum of 3% total. (I.e.- if Year 1 has a CPI-U increase of 3.8 % then .8% will carry forward to the next year to be applied to the CPI-U change. In no event will City's increase ever be more than the 3% cap in any year)

4. **RECYCLING MARKETS.** If recycling market prices change significantly during the course of the contract, the Vendor may present their findings to the City for consideration of a price or scope adjustment. Vendor may terminate the contract upon a 180-day notice if a revised agreement between the parties cannot be met.
5. **CONTAMINATION.** The City will pay for contamination (out-throws) that exceed 10% of the monthly recycling collection at the rate of **\$125.00 per ton** beginning six months after service begin date. A composition study will be completed five months after service begin date which will be used to calculate the percentage of out-throws charged to the City on monthly collections beginning on month six. Updated composition studies will be done every six months during the renewal term to determine charges for out-throws. Waste Pro will notify the City the date when each composition study will be completed, and invite the City to observe the process.
6. **TERM & TERMINATION.** This Agreement shall begin on October 1, 2018 and terminate at the end of the business day on September 30, 2023. This Agreement may, by written consent between City and the Vendor, be renewed for up to one (1) additional five-year term. Either party may terminate this Agreement immediately upon default or breach by the other party, if said party remains in default or breach after receiving written notice and fails to cure such default or breach within thirty (30) days of said notice. Termination of this Agreement shall have no effect upon the rights of the parties that accrued prior to termination.
7. **CHANGE IN SCOPE.** Should the City and Vendor mutually agree to a change in the scope of services being provided during the term of this Agreement, an agreed to price adjustment shall be set forth in a written amendment to this Agreement. Pricing shall be based on unit prices set forth in this Agreement, when applicable.
8. **PERFORMANCE EVALUATION.** At the end of the contract, the City may evaluate the Vendor's performance. This evaluation will become public record.
9. **CONTRACT FULFILLMENT.** Vendors who enter into an Agreement with the City of Ocala and fail to complete the contract term, for any reason, will be subject to future bidding suspension for one (1) year, and up to a possible three (3) year bid debarment for serious contract failures.
10. **TAGGING PROCEDURES.** Vendor will perform tagging procedures as outlined in Exhibit B- Tagging Procedures to assist with reducing contamination in the City's recycling stream. The City will visit tagged households on the 2nd violation to discuss contamination and violations

with recycling. Repeat offenders will have their recycling cart removed by the City.

11. METHOD OF COMPENSATION. In consideration for providing the City with the services described in this contract, the City will compensate the Vendor as noted in **Section 2** as follows:

- A. The City will pay Vendor, as approved and invoiced, for each verified ton of recycling collected. Vendor shall provide certified scale reports of tons collected with the invoice. The allowability of compensation sought under this Contract is expressly made subject to the terms of this Contract, and any pertinent Federal and State law.
- B. Vendor shall invoice the City monthly for all tons collected during the preceding calendar month. Invoices for this Agreement will be prepared by Vendor, and submitted through the responsible City Project Manager at: City of Ocala Sanitation Department, Dwayne Drake, 2100 NE 30th Avenue, Building 200, ddrake@ocalafl.org. Invoices must be reviewed and agreed upon by City of Ocala Project Manager; this review and agreement shall not be unreasonably withheld, conditioned, or delayed. The City contract number must be listed on the submitted invoice along with an assigned invoice number and invoice date. Please indicate any payment discount terms on the invoice. One original of the invoice should be included with the submission.
- C. The City reserves the right to withhold payment for work not completed, or services completed unsatisfactorily, or work or products deemed inadequate or untimely by the City. Any payment withheld will be released and paid to Vendor promptly when work or products are subsequently performed/delivered to the City's satisfaction.

12. MISCELLANEOUS INSURANCE PROVISIONS.

- A. Insurance Requirements. These insurance requirements shall not relieve or limit the liability of Vendor. The City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect Vendor's interests or liabilities, but are merely minimums. No insurance is provided by the City under this contract to cover Vendor. No work shall be commenced under this contract until the required Certificate(s) have been provided. Work shall not continue after expiration (or cancellation) of the Certificate and shall not resume until new Certificate(s) have been provided. Insurance written on a "Claims Made" form is not acceptable without City of Ocala Risk Management consultation.



- B. Deductibles. Vendor's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by the latter. Vendor is responsible for the amount of any deductible or self-insured retention.
- C. Certificates. Vendor shall provide a Certificate of insurance, issued by an agency authorized to do business in the State of Florida and with an A.M. Best rating* of at least an A, showing the "City of Ocala" as an Additional Insured for General Liability, and Business Automobile Liability insurance. The City of Ocala, Procurement Department, 110 SE Watula Ave, Ocala, FL 34471 should be shown as the Certificate Holder, and for providing for required thirty (30) day cancellation notice.

*Non-rated insurers must be pre-approved by the City Risk Manager.

- D. Failure to Maintain Coverage. In the event Vendor fails to disclose each applicable deductible/self-insured retention or obtain or maintain in full force and effect any insurance coverage required to be obtained by Vendor under this Agreement, Vendor shall be considered to be in default of this Agreement.
- E. Severability of Interests. Vendor shall arrange for its liability insurance to include General Liability, Business Automobile Liability, and Excess/Umbrella Insurance, or be endorsed to include, a severability of interests/cross liability provision, so that the "City of Ocala" (where named as an additional insured) will be treated as if a separate policy were in existence, but without increasing the policy limits.

13. LIABILITY INSURANCE. Vendor shall procure and maintain for the life of this contract Commercial General Liability Insurance with limits not less than:

- A. \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage and Personal and Advertising Injury;
- B. \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations;
- C. Commercial General Liability policy must include coverage for Contractual Liability.

The City, a political subdivision of the State of Florida, its officials, employees, and volunteers will be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage regarding liability arising out of activities performed by or on behalf of Vendor. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, or volunteers.

14. **BUSINESS AUTO LIABILITY.** Vendor shall procure and maintain Automobile Insurance for the life of this contract. Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident. The City must be an additional insured on the policy.
15. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Vendor shall procure and maintain for the life of this contract Workers' Compensation insurance, and Employer's Liability at statutory requirement limits. Vendor shall ensure any subcontractor has statutory coverage. The City of Ocala need not be named as an additional insured, but a subrogation waiver endorsement is required. Exceptions and exemptions will be allowed by the City's HR/Risk Director, if they are in accordance with Florida Statute.
16. **POLLUTION LIABILITY.** Vendor shall purchase and maintain in force for the duration of the contract insurance for pollution legal liability applicable to bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs, removal, storage, disposal, and/or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims.

Coverage shall apply to sudden and gradual pollution conditions resulting from the escape of release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants, including asbestos.
17. **E-VERIFY.** In accordance with Executive Order 11-116, Vendor shall utilize the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Vendor shall also require all subcontractors performing work under this Agreement to utilize the E-Verify system for any employees they may hire during the term of this Agreement.
18. **SAFETY/ENVIRONMENTAL.** Vendor is responsible at all times for precautions to achieve the protection of all persons including employees and property. The Vendor shall make reasonable efforts to detect apparent hazardous conditions and shall take prompt action where necessary to avoid accident, injury or property damage. EPA, DEP, OSHA, and all other applicable safety laws and ordinances shall be followed as well as American National Standards Institute Safety Standards. All Vendor caused hazardous spills, accidents, injuries

or claims or potential claims shall be reported promptly to the City Risk Management Department.

19. **INDEPENDENT CONTRACTOR STATUS.** City expressly acknowledges the Vendor is an independent contractor. Nothing in this Agreement is intended, nor shall be construed, to create an agency relationship, a partner or partnership, an employer/employee relationship, a joint venture relationship, or any other relationship allowing the City to exercise control or discretion over the manner or method by which Vendor performs hereunder.
20. **ACCESS TO FACILITIES.** City will provide Vendor with access to the Facilities to permit Vendor to meet its obligations hereunder.
21. **ASSIGNMENT.** Neither party may assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of the other party, which shall not be unreasonably withheld.
22. **NON-EXCLUSIVITY.** Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Vendor. This Contract shall not restrict City from acquiring similar, equal or like goods and/or services, or executing additional contracts from other entities or sources.
23. **PUBLIC RECORDS.** The Vendor shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, the Vendor shall:
 - A. Keep and maintain public records required by the public agency to perform the service.
 - B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the vendor does not transfer the records to the public agency.
 - D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the vendor or keep and maintain public records required by the public agency to perform the service. If the vendor transfers all public records to the public agency upon completion of the contract, the vendor shall destroy any duplicate

public records that are exempt or confidential and exempt from public records disclosure requirements. If the vendor keeps and maintains public records upon completion of the contract, the vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.org; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

24. **TAX EXEMPTION.** City is exempt from all federal excise and state sales taxes (State of Florida Consumer's Certification of Exemption 85-8012621655C-9). The City's Employer Identification Number is 59-60000392. Vendor doing business with City will not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor will Vendor be authorized to use City's Tax Exemption Number for securing materials listed herein.
25. **EXCESS FUNDS.** Any party receiving funds paid by City under this Agreement shall promptly notify City of any funds erroneously received upon the discovery of such erroneous funds receipt. Any such excess funds shall be refunded to City within thirty (30) days, or must include interest calculated from the date of the erroneous payment or overpayment at the interest rate for judgments at the highest rate as allowed by law.
26. **AUDIT.** Vendor shall comply and cooperate immediately with any inspections, reviews, investigations, or audits relating to this Agreement as deemed necessary by the Florida Office of the Inspector General, the City's Internal or External auditors or by any other Florida official with proper authority.
27. **PUBLICITY.** Vendor shall not use City's name, logo, seal or other likeness in any press release, marketing materials, or other public announcement without City's prior written approval.
28. **CONFLICT OF INTEREST.** Vendor must have disclosed with the submission of their bid, the name of any officer, director, or agent who may be employed by the City. Vendor must

disclose the name of any City employee who owns, directly or indirectly, any interest in Vendor or any affiliated business entity. Any additional conflicts of interest that may occur during the contract term must be disclosed to the City of Ocala Procurement Department.

29. **NON-DISCRIMINATORY EMPLOYMENT PRACTICES.** During the performance of the contract, the Vendor agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation or veteran status and will take affirmative action to ensure that an employee or applicant is afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the-job training.
30. **PUBLIC ENTITY CRIMES.** Vendor on its behalf and its affiliates agrees and affirms that it has not been placed on the convicted vendor list following a conviction of a public entity crime as provided for in Section 287.133(2)(a), Florida Statutes, which states that a person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO, for a period of 36 months from the date of being placed on the convicted vendor list.
31. **DEFAULT.** This Agreement is critical to the City and the City reserves the right to immediately cancel either in whole or in part any portion of this Agreement due to failure of the Vendor to carry out any obligation, term, or condition of the Agreement. The City will issue a written notice of default effective immediately and not deferred by any interval of time. Default shall be any act or failure to act on the part of the Vendor including, but not limited to, any of the following:
- A. Vendor fails to adequately perform the services set forth in the specifications of the Agreement;
 - B. Vendor fails to complete the work required within the time stipulated in the Agreement;
- and

- C. Vendor fails to make progress in the performance of the Agreement and/or gives the City reason to believe that the Vendor will not or cannot perform to the requirements of the Agreement.

32. REMEDIES/OPPORTUNITY TO CURE. If Vendor defaults on any provision of this Agreement, City may, at its sole discretion, give written notice to Vendor detailing Vendor's violations and giving Vendor an opportunity to cure the default. If such violation is not corrected to the reasonable satisfaction of City within the time required by the City to cure the default, after the date of notice of violation, the City may, without further notice, declare Vendor to be in breach of this Agreement and pursue all remedies available at law or equity, including termination of this Agreement without further notice and all rights of vendor hereunder.

Notwithstanding City's termination of the Agreement, Vendor shall remain liable to City for damages, costs, or attorney's fees arising prior to such termination. In case of default, the City reserves the right to hire another vendor to complete the required work in accordance with the needs of the City. City may recover any actual excess costs from the Vendor by: (a) Deduction from an unpaid balance, (b) Placing a claim against the Performance Bond, or (c) Any other remedy as provided by law.

33. TERMINATION FOR CONVENIENCE. City may, at any time and for any reason, terminate Vendor's services and work at City's convenience. Upon receipt of such notice, Vendor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Vendor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs incurred by Vendor as permitted by the contract and approved by City.

34. NON-FUNDING. In the event sufficient budgeted funds are not available or depleted, City shall notify the Vendor of such occurrence and contract shall terminate without penalty or expense to the City.

35. WAIVER. The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party

to any other or further notice or demand in similar or other circumstances.

36. **FORCE MAJEURE.** Neither party shall be responsible for damages or delays caused by Force Majeure or other events beyond the reasonable control of the party and which could not reasonably have been anticipated or prevented.

For purposes of this Agreement, Force Majeure includes, but is not limited to, war, terrorism, riots, epidemics, fire, acts of nature, strikes, lockouts, court orders, and acts, orders, laws, or regulations of the government of the United States or the several states, prohibiting or impeding any party from performing its respective obligations under the contract.

If Force Majeure occurs, the parties shall mutually agree on the terms and conditions upon which services may continue. Should Vendor be delayed in the commencement, performance, or completion of the Work due to any of the conditions under this section, Vendor shall be entitled to an extension of time only, provided however, that in no event shall Vendor be entitled to any increased costs, additional compensation, or damages of any type resulting from such Force Majeure delays.

37. **SEVERABILITY OF ILLEGAL PROVISIONS.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.

38. **INDEMNITY.** Vendor shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Vendor, its agents, and employees.

39. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.

40. **NOTICES.** All notices, certifications or communications required by this Agreement shall be



given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by email. All notices shall be addressed to the respective parties as follows:

If to Vendor:

Waste Pro of Florida, Inc.
Joseph Lourenco
408 Cypress Road
Ocala, Florida 34472
Phone: 352-857-3387
Email: jlourenco@wasteprousa.com

If to City of Ocala:

Tiffany Kimball, Contracting Officer
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-629-8366
Fax: 352-690-2025
Email: tkimball@ocalafl.org

Copy to:

Patrick G. Gilligan, Esquire
Gilligan, Gooding, Franjola & Batsel, P.A.
1531 SE 36th Avenue
Ocala, Florida 34471
Phone: 352-867-7707
Fax: 352-867-0237
Email: pgilligan@ocalalaw.com

41. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges reasonably billed by the

attorney to the prevailing party.

42. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
43. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.
44. **JURISDICTION AND VENUE.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.
45. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.

46. **MUTUALITY OF NEGOTIATION.** Vendor and City acknowledge that this Agreement is a result of negotiations between Vendor and City, and the Agreement shall not be construed in favor of, or against, either party because of that party having been more involved in the drafting of the Agreement.
47. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.
48. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or because of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
49. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
50. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
51. **ELECTRONIC SIGNATURE(S).** Vendor, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
52. **ENTIRE AGREEMENT.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

53. **CONTRACT DOCUMENTS.** The contract documents that comprise the entire Agreement between the City and Vendor are made a part hereof, and are listed as exhibits. There are no contract documents other than those listed below. If there is a conflict in terms between this Agreement and the contract documents, then the terms of this Agreement will control over the terms of the contract documents listed below.

Exhibit A: Scope of Service (A-1 through A-5)

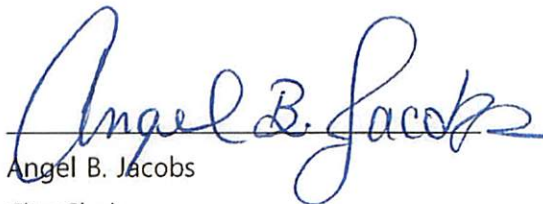
Exhibit B: Tagging Procedures (B-1 through B-2)

54. **LEGAL AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

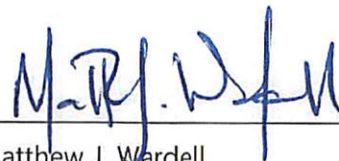
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

ATTEST:

CITY OF OCALA



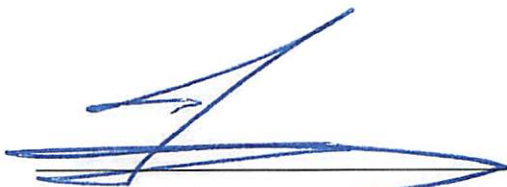
Angel B. Jacobs
City Clerk



Matthew J. Wardell
City Council President

Approved as to form and legality:

WASTE PRO OF FLORIDA, INC.



Patrick G. Gilligan
City Attorney



Vice President or higher



ACCEPTED BY CITY COUNCIL
May 15, 2018
DATE
OFFICE OF THE CITY CLERK

Vendor will be responsible for recycling collection, processing and hauling with glass included. Vendor is guaranteed to be paid for a minimum of 3,800 tons of recycling collection. Single stream recycling is available to approximately 16,000 residential customers, 7,000 multi-family customers and just over 100 residential offices. Recycling collection services are performed once per week at the curbside, or rear door. Collection services are performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday.

Definitions

Recyclables – Objects that can be salvaged, processed and used again.

Recyclable processing – Sorting and/or delivering recyclables to a certified recycling facility.

Landfilling – A system of trash and garbage disposal in which the waste is buried between layers of earth.

Vendor Responsibilities

Vendor will be responsible for the complete collection and processing of recyclables in the most cost efficient and effective manner. It is the sole responsibility of the Vendor to perform the necessary activities in accordance with requirements of any permits and applicable laws.

Recycling Materials

Vendor will collect, process, and market recyclable materials including:

1. Aluminum products; bi-metal/steel cans;
2. PET, PETE, HDPE plastic containers (includes colored, #1-7 plastics);
3. Newspapers and inserts; phone books; junk mail; office paper; old corrugated cardboard (OCC); paperboard; magazines; cereal boxes;
4. Glass containers;
5. Aerosol cans.

The current collections are approximately 3,800 tons (with glass) annually from single family residential units, multifamily residential units serviced by the commercial division (dumpsters) and City buildings and properties

Recycling Collection Schedule

The Vendor shall collect recyclables on a weekly basis. Collections must not begin before 7:00 a.m. Recycling services will be performed year round, excluding predetermined holidays and with the exception of extreme and adverse weather conditions. The Vendor will give notification and consult with the City as such occasions arise. The Vendor will work with City staff to determine holiday and inclement weather pick up schedule modifications.

Collection Procedure

Vendor shall collect all properly prepared materials accepted by this program. Newspapers and other paper materials shall be considered acceptable for collection whether wet or dry. Improper contents, i.e. those materials not designated for collections, do not have to be collected and may be left in the container with a printed explanatory notice. The contents of the notices shall be subject to the City's approval prior to printing for use.

Vendor will not place items from the customer's cart on the ground and over-sized cardboard boxes placed next to recycle carts will be collected by the City. In the case of missed collections, arrangements should be made to collect those the same day or on the next business day.

Road Specifications

All roads and/or drives receiving garbage service are eligible to participate in curbside recycling.

Front Door/Back Door Service

Special front door/back door collection service shall be provided for medical waiver residents as identified by the City. The City will relay all customer requests for such service to the Vendor upon receipt. Currently, 150 residents receive this service.

Multi-Family Complexes

Multi-family recycling drop off points may require screening and/or other solutions to accommodate the containers and to meet the planning, parking, access, appearance, zoning, and other requirements of the jurisdiction in which the site is found. The complexes themselves may also have appearance and other requirements. Vendor will have primary responsibility for ensuring the placement of sufficient containers at each complex. Containers used for

multifamily dwellings must be maintained by the Vendor in cooperation with apartment complex or mobile home park maintenance personnel so that they are available for use. Vendor shall furnish recycling containers appropriate for multi-family complexes.

The City will not require the Vendor to bear any expense of any required site modifications, but the Vendor will be required to work closely with the complex managers to ensure proper and acceptable container placement.

Revenues

Vendor will receive 100% of the revenues from the sale of recyclables.

Public Awareness Campaign

Before and during the program, the Vendor will conduct a Public Awareness Campaign, with the assistance of the City, to ensure comprehensive public education of the recycling program. The Vendor will be responsible for providing flyers along with delivery of the bins to all households. Vendor will submit for the City's review, any marketing program it plans for public awareness to promote recycling.

City Buildings

The City requires that City buildings and properties maintained by the City receive basic recycling service at no charge.

Contamination

All recycling materials collected will be processed and marketed by the Vendor. Landfilling of approved recycling materials will be prohibited, apart from material contamination. The Vendor must report on a quarterly basis the landfilling of contaminated materials, providing in writing the details of how much, and where materials were landfilled.

The City will pay for contamination (out-throws) that exceed 10% of the monthly recycling collection at the rate of \$125.00 a ton beginning six months after service begin date. Five months after the service begin date, a composition study will be completed to calculate the percentage of out-throws charged to the City on monthly collections. Updated composition studies will be done every 6 months thereafter to determine the charge for out-throws for

that period. The Vendor will notify the City the date when each composition study will be completed, and invite the City to observe the process.

Recycling Bins

Vendor will provide and distribute, at its own expense, collection containers for each unit. Used carts can be provided if they are in good condition. For most households, these containers will be 96 gallon carts. Smaller bins/containers will be available for disabled residents, or those in smaller housing units with limited space that may request a reduced size collection bin. Each container will be able to withstand outside weather conditions and will have the City of Ocala's logo imprinted (if new carts) and contractor's name and number identified. Vendor must provide additional containers at the request of the City at no cost, as needed. Appearance, color and design of the containers are subject to the approval of the City to distinguish them as recycle containers.

When customers request a bin/cart, the request must be met within five (5) working days.

Reporting Requirements

Vendor will be required to keep accurate program records and submit reports to comply with the City's reporting requirements. These reports are extremely important, as they will serve as a means to inform the City's staff of the status of recycling activities. The City also requires the Vendor to provide certifiable, accurate monthly weight receipts for all materials collected in the City's program and marketed by the Vendor. The Vendor will submit these records of sales of materials quarterly. Monthly, quarterly and annual reporting requirements are outlined below:

Monthly Project Reports

- Summaries of the tonnages of all materials recovered by material type.
- List of all customer complaints including name, address, date, nature of complaint, and how the complaint was resolved.
- Weekly set-out rates and monthly participation rates.
- Any changes in processing locations or outlets for any commodity.

Quarterly Reporting Requirements

- Tonnages recovered by material and where they were processed.
- Discussion of problems and noteworthy experiences in program operation.

- Summary of all complaint calls received by number and type.

Annual Reports

- Summary of participation rates, recovered materials' tonnage and type, and where they were processed.
- A discussion of public awareness activities and their impact on participation and recovered volumes.
- A discussion of highlights and problems, and measures taken to resolve problems and increase efficiency and household participation.
- Summary of complaint calls by number and type.

Tagging Procedures

- Vendor will complete tagging procedures as outlined in **Exhibit B** to reduce contamination in the recycling stream. City will assist the effort by removing carts of repeat violators.

I. Recycling Tagging, Reporting, and Violation Procedures:

A. WastePro Tagging Procedures:

1. WastePro will provide a separate driver to identify violators and tag appropriately.
2. WastePro shall visually check each residence on all City routes on a continuous basis, one route per day, nine weeks to check all routes, until recycling contamination is reduced to 10% or less.
3. ***WastePro Cart Tagging Procedures.***
 - a. First violation: WastePro must place a yellow tag with a yellow tag letter on recycling cart.
 - b. Second violation: WastePro must place a red tag with a red tag letter on recycling cart.
 - c. Third violation: WastePro must report violation to City for cart removal.

B. WastePro Reporting Procedures:

1. Provide a daily report to the City on recycling violations, the report must include the following:
 - a. Date;
 - b. Route;
 - c. Address of violator;
 - d. Contaminant(s)
 - e. Number of violation offense (1, 2, or 3); and
 - f. Color of tag left (if applicable).
2. Example of daily report format:

Tagging Report: April 25, 2018				
Route	Address	Violation	Contaminants	Color of Tag
2	2 SE 1st Street	1	Garbage	Yellow
4	4 SE Watula Ave	2	Yard waste	Red
6	6 SE 3rd Place	3	Cat litter	N/A

C. City Recycling Violation Procedures:

1. First violation: City will provide a yellow tag notice letter to WastePro.
2. Second violation: City will provide a red tag notice letter to WastePro. City representative will visit the residence and speak to the resident about recycling. If no one is home, a red tag notice letter will also be left at the residence or mailed to the residence.
3. Third violation: City will remove recycling cart from residence.