



Cynthia Schweers
Director of Citizen Engagement
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

February 3, 2022

Re: Contract extension

Dear Cynthia,

Thank you for your response on January 31, 2022, regarding a one-year extension of solid waste and recycling services for the City of Palm Coast. On September 30, 2021, Waste Pro submitted a price of \$26.47 per month for those services. The next lowest and only other proposer submitted a price of \$34.24 per month which was recommended to the City Council. The recommended provider proposed a rate for service that was **29.4% higher** than the number Waste Pro submitted and **69.8% higher** than your current rate for service. Both submitters based pricing upon historical market conditions (including the fact that recycling now has a processing fee) up until that time and a five-year term when presenting those numbers.

Based upon your most recent response the following conditions are agreed upon:

- Permanent suspension of the Recycle Rewards Program
- Permanent suspension of HHW program
- Limitations on yard waste set out to 2 cubic yards (instead of 4)
- Limitations on bulky items per set out 3 cubic yards.
- Remove the age requirement on vehicles.
- Change fine or liquidated damages schedule to reflect amounts equal to one-half of the existing schedule.
- Replace Section 21 in the RFP and contract with:

- Force Majeure

Except for the obligation to pay for services rendered, neither party hereto shall be liable for failure to perform hereunder due to contingencies beyond its control, including, but not limited to riots, war, fire, acts of God (including without limitation flood, hurricane, tornado or storm or pandemic), labor shortages beyond its control, change in law, compliance with any law, regulation or order, whether valid or invalid, of the United States of America or any other governmental body or instrumentality



thereof, whether now existing or hereafter created (collectively referred to as "Force Majeure Event").

In addition, the performance required under this Contract does not include the collection or disposal of any increased volume of solid wastes resulting from a Force Majeure Event. In the event of such Force Majeure Event, the Contractor will vary routes and schedule as may be deemed necessary. In addition, the City and Contractor shall negotiate to pay Contractor for services to be performed because of increased volumes resulting from a Force Majeure Event or any other event over which Contractor has no control.

- Replace Section 6.5 in the RFP and contract with:

- Termination and Attorney Fees

In the event of an alleged material breach of this Agreement by the Contractor, the City shall provide written notice of such breach to the Contractor, to be delivered by Certified Mail, return receipt requested. If within 30 days from receipt of such notice, the Contractor has either failed to correct the condition or reach an agreement with the City on a mutually satisfactory solution, or where the Contractor's lack of performance in meeting the terms of the contract continues to reoccur, then the City may require the Contractor to appear before the City Council, at either a regular or specially called meeting, to show cause why the Contract should not be terminated. After such meeting, the Council may elect to:

- A. Provide written notice to the Contractor that the Agreement will be terminated 30 days from the receipt of such notice.
- B. Extend the time to allow Agreement to cure the breach or persistent lack of performance.
- C. Impose sanctions or other remedies without terminating the Agreement.

In the event of an alleged material breach of this Agreement by the City, the Contractor shall provide written notice of such breach to the City, to be delivered by Certified Mail, return receipt requested. If within 30 days from receipt of such notice, the City has either failed to correct the condition or reach an agreement with the Contractor on a mutually satisfactory solution, or where the City's alleged breach continues to reoccur, the Contractor may provide written notice to the City that the Agreement will be terminated 30 days from receipt of such notice.

To further reduce the price offered the following are offered:

- Collection vehicles may be diesel or CNG. (newer model diesel vehicles have DPF filtration systems)
- The addendum will supersede any previous language in the original contract or RFP.



- The conditions requested in the extension addendum will begin upon approval with exception of the price per home.
- Waste Pro will have the opportunity to petition the City for a change in cost due to unusual circumstances. This request will be backed up by audited financial data. If the City refuses then the contractor may opt-out of the contract with 180-day notice.
- Removal of Favored Nations clause located on page 16, 3. (b) Rate adjustments in the proposed contract.
- Request that the City reduce the franchise fee from 10% to 6.75%. This will allow the City to collect the same amount of franchise fees that they are currently collecting.

The pricing for a one-year contract extension based on the above changes is **\$29.77** per month per household which includes the 6.75% franchise fee. It is 15.0% lower than the original proposal submitted by the other submitter that was recommended by staff. It is based upon projected market conditions from 9/21 through 6/23. As already discussed, we are seeing unprecedented issues with supply chain and labor due to the pandemic as are all industries in the country.

We are thankful for the long-term partnership we have with the city. Our number one priority is to provide a level of service that your residents expect and be your waste service partner for many years to come. Our local employees are proud to call Palm Coast and Flagler County home and we look forward to the opportunity to keep it that way. Please feel free to contact me should you have any questions.

Regards,

A handwritten signature in black ink, appearing to read "Brian Wintjen". The signature is stylized and cursive.

Brian Wintjen
Regional Vice President
Waste Pro of Florida, Inc.