

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7b**

SUBJECT: Consideration of Approval of a Service Contract No. 22-048 between Flagler County and Waste Pro of Florida Inc., to provide Residential Solid Waste Management Services in the Annual Not-to-Exceed Amount of \$3,000,000.

DATE OF MEETING: April 3, 2023

OVERVIEW/SUMMARY: The primary scope of work includes the collection and disposal of household trash, recycled materials, yard waste, bulk household items, and whitegoods.

A Request for Proposals (RFP) No. 22-048P was publicly broadcast on www.vendorlink.com and on the Purchasing webpage of the County website on August 31, 2022 and advertised in the Daytona News Journal requesting proposals from suppliers to provide Residential Solid Waste Management Services

The County received two submissions in response to the RFP which were opened in a publicly noticed meeting on October 5, 2022. Staff reviewed the proposals for conformity to requirements of the RFP. Both responses were deemed to be responsive and responsible. The Evaluation Committee evaluated, scored and ranked submissions in accordance with the evaluation criteria stated in the RFP. The attached scoring/ranking summary denotes the result of the Committee's evaluation.

Waste Pro's pricing of approximately \$32.05 per household per month (current rate of \$29.77 per household per month) includes a service enhancement and value add for customers for yard waste collection service from the required two (2) cubic yards per pick up to four (4) cubic yards per pick up which has been incorporated into the contract. Additionally, Waste Pro meets the County's requirements to qualify as a Local Vendor.

The Evaluation Committee unanimously recommends award of Contract No. 22-048 to Waste Pro of Florida Inc., the highest ranked firm.

Service (Unincorporated Flagler County)	Waste Pro	FCC	Palm Coast FCC Contract
Collection and Disposal of Residential Solid Waste (household garbage)	\$ 1,962,572.64	\$ 1,647,021.12	\$1,651,518.00
Collection and Disposal of Residential Bulk Items (e.g., furniture)	included	\$ 276,152.64	\$149,320.32
Collection and Disposal of Residential Recyclables (e.g., plastics, glass bottles)	\$ 531,616.32	\$ 810,467.52	\$836,553.60
Collection and Disposal of Residential Yard Waste (e.g., small limbs and grass clippings) *	\$ 388,592.64	\$ 452,458.56	\$451,559.04
Collection and Disposal of "Call Ahead" Pickup of White Goods (e.g., stoves, refrigerators)	included	\$ 26,985.60	\$34,742.69
Dumpsters for Collection and Disposal of Residential Solid Waste (35 locations)		\$ 15,291.84	
TOTALS	\$ 2,882,781.60	\$ 3,228,377.28	\$ 3,115,937.80

* Waste Pro and FCC submitted bids to Flagler County for 4 Cubic Yards of Residential Yard Waste Disposal, the City of Palm Coast's FCC contract only provides 2 Cubic Yards of Residential Yard Waste Disposal

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7b**

STRATEGIC PLAN:

- **Goal 3** – Improve Public Safety Response and Service Delivery Capabilities
 - **Objective PHS 3.3:** Protect life, property, and the environment from the effects of fire, medical emergencies, disasters and hazardous materials accidents to current and expanding service delivery areas.

FUNDING INFORMATION: Funding for this contract is provided in Fund 1405 Residential Solid Waste Fund. The revenues of this fund are derived from the Special Assessment Fee assessed on unincorporated area.

DEPARTMENT CONTACT: Mike Dickson, Director, General Services
John Brower, Director, Financial Services

RECOMMENDATION: Request the Board approve and authorize the Chair to execute a service Contract No. 22-048 to Waste Pro of Florida, Inc., in the annual not-to exceed amount of \$3,000,000 for residential solid waste management services as approved to form by the County Attorney, authorize the County Administrator to execute change orders and other related project documents as approved to form by the County Attorney.

ATTACHMENTS:

1. Contract 22-048
2. Scoring/Ranking Summary



Contract No. 22-048

Residential Solid Waste

Management Services

Between

Flagler County Board of County

Commissioners

and

Waste Pro of Florida, Inc.

CONTRACT NO. 22-048
RESIDENTIAL SOLID WASTE MANAGEMENT SERVICES

THIS AGREEMENT ("Contract") is made and entered into as of this 17 day of March 2023, by and between FLAGLER COUNTY, a political subdivision of the State of Florida, ("County"), located at 1769 East Moody Blvd., Bunnell, FL, 32110, and WASTE PRO OF FLORIDA INC., a Florida Corporation, ("Contractor") located at 2101 West State Road 434, 3rd Floor, Longwood, FL 32779, and duly authorized to conduct business in the State of Florida. County and Contractor are collectively referred to as the "Parties" and individually as "Party."

WHEREAS, Contractor engages in the business of waste management services; and

WHEREAS, County has determined that it is necessary, expedient and in the best interest of County to retain Contractor to render the services described in this Contract; and

WHEREAS, this Contract is a result of Contractor's submission of a response to the County's Request for Proposals for Residential Solid Waste Management Services and the County thereafter conducting a competitive selection process.

NOW, THEREFORE, the County and Contractor, in consideration of the mutual covenants, promises, and representations contained herein, the sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1. SCOPE OF SERVICES

Contractor shall provide services as described in Exhibit A, ("Scope of Services" or "Services"), which is incorporated herein.

ARTICLE 2. EXHIBITS INCORPORATED

This Contract consists of a primary contract and five exhibits, which are as follows:

- Exhibit A** Scope of Services
- Exhibit B** Fee Rate Schedule
- Exhibit C** Affidavit of No Conflict
- Exhibit D** Insurance and Bond Requirements
- Exhibit E** Flagler County Facility Locations

These Exhibits are attached hereto and are incorporated into this Contract. In the event of a conflict between the terms and conditions provided in the Articles of this Contract and any Exhibit, the provisions contained within these Articles shall prevail unless the Exhibit specifically states that it shall prevail.

ARTICLE 3. AGREEMENT TERM

- A. This Contract shall commence on June 1, 2023 (“Effective Date”). This Contract shall remain in force for five years through May 31, 2028, (“Initial Term”) unless terminated by County pursuant to Article 8.
- B. The parties may extend the Initial Term of five years for two additional five-year terms, for a total contract term of fifteen years, by mutual written consent at least thirty days prior to the expiration of the then-existing term.

ARTICLE 4. COMPENSATION

- A. Contractor shall be compensated for all Services rendered and expenditures incurred in providing the Services less the franchise fee amount as specified in **Exhibit A**.
- B. The rates specified in **Exhibit B** shall be the total compensation for services and shall contain all costs to include salaries, office operation, transportation, equipment, overhead, general and administrative, incidental expenses, fringe benefits and operating margin.

ARTICLE 5. INVOICES AND TIME OF PAYMENT

- A. Contractor shall submit monthly invoices to the County for Services rendered based on the fee schedule in **Exhibit B**. The invoices shall specify the total amount of compensation less the seven percent franchise fee and the total amount due. County shall have forty-five (45) days from the receipt of an invoice seeking payment of fees or costs to either pay the invoice, or notify Contractor that the deliverable, or any part thereof, is unacceptable, and/or that any asserted expense is not reimbursable. The County will pay the invoices in accordance with Florida’s Local Government Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.
- B. County shall have the right to retain from any payment due Contractor under this Contract, an amount sufficient to satisfy any amount of liquidated damages due and owing to County by Contractor on any other contract between Contractor and County.
- C. All costs of providing the Services shall be the responsibility of Contractor, as more particularly described in **Exhibit B**.
- D. Any dispute between County and Contractor with regard to the percentage of the Services that have been completed or Contractor’s invoice shall be resolved pursuant to the dispute resolution procedures established by Flagler County Procurement Policy and Article 10 of this Contract.

ARTICLE 6. RESPONSIBILITIES OF CONTRACTOR

- A. Contractor shall appoint an agent with respect to the Services to be performed by Contractor pursuant to this Contract. Contractor's agent shall have the authority to make representations on behalf of Contractor, receive information, and interpret and define the needs of Contractor and make decisions pertinent to services covered by this Contract. Contractor's agent shall have the right to designate other employees of Contractor to serve in his or her absence. Contractor reserves the right to designate a different agent, provided that County is given advance written notice thereof.
- B. Contractor shall perform the Services in accordance with the terms and conditions of this Contract.
- C. Contractor shall ensure that all employees assigned to render Services under this Contract are duly qualified, registered, licensed, or certified to provide the Services required.
- D. Contractor shall be responsible for collecting all existing data required for the successful completion of each task.
- E. Contractor shall not engage in any obligations, undertakings, contracts, or professional obligations that create a conflict of interest, or even an appearance of a conflict of interest, with respect to the Services provided pursuant to this Contract. Contractor attests to this via an Affidavit of No Conflict, **Exhibit C**.
- F. Contractor shall be entitled to rely upon information provided from County. Information includes, but is not limited to, additional services, consultations, investigations, and reports necessary for the execution of Contractor's work under this Contract. Contractor shall be fully responsible for verifying, to the extent practicable, documents and information provided by County and identifying any obvious deficiencies concerning the documents and information provided. Contractor shall notify County of any errors or deficiencies noted in such information provided and assist, to the extent practicable, County in the identification and resolution of same.
- G. Contractor shall maintain an adequate and competent staff of professionally qualified persons during the term of this Contract for the purpose of rendering the required Services hereunder. Contractor shall not sublet, assign or transfer any Services under this Contract without prior written consent of County, which the County may grant in its sole discretion.
- H. County may require in writing that Contractor remove from the Services any of Contractor's personnel that County determines to be incompetent, careless, or otherwise objectionable. No claims for an increase in compensation or extension of the Contract term based on County's use of this provision will be valid.

ARTICLE 7. RESPONSIBILITIES OF COUNTY

- A. County shall appoint an individual to serve as County Representative/Contract Manager for purposes of this Contract. The County Representative shall have the authority to transmit instructions, receive information, interpret and define the policy of County and make decisions pertinent to Services covered by this Contract. County reserves the right to designate a different County Representative at any time during the term of this Contract.
- B. County shall make available, at no cost to Contractor, information relative to the Services that is useful in the performance of the Scope of Services.
- C. County shall provide prompt notice to Contractor whenever County observes or otherwise becomes aware of any defect in the performance of Services under this Contract.
- D. County shall give careful and reasonable consideration to the findings and recommendations of Contractor and shall respond and issue notices in a timely manner.
- E. County personnel shall be available on a time-permitting basis, where required and necessary, to assist Contractor. The availability and necessity of said personnel to assist Contractor shall be at the discretion of County.
- F. County shall perform the responsibilities enumerated in this Article at no cost to Contractor.

ARTICLE 8. TERMINATION OF AGREEMENT

A. TERMINATION FOR CAUSE:

- 1. County shall have the right, by written notice to Contractor, to terminate this Contract, in whole or in part, for failure to substantially comply with the terms and conditions of this Contract, to include:
 - a. Failure to provide products or Services that comply with the specifications herein or that fail to meet County's performance standards; or
 - b. Failure to deliver the supplies or perform the Services within the time specified in this Contract.
- 2. Prior to termination for default, County shall provide adequate written notice to Contractor, affording Contractor the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action.
- 3. Such termination may also result in suspension or debarment of Contractor in accordance

with Flagler County's Purchasing Manual, Section 28. Contractor shall be liable for any damage to County resulting from Contractor's default of the Contract. This liability includes any increased costs incurred by County in procuring replacement Services.

4. In the event of termination by County for any cause, Contractor shall not have any right or claim against County for lost profits or compensation for lost opportunities. After a receipt of County's Notice of Termination and except as otherwise directed by County, Contractor shall:
 - a. Stop performance of the Services on the date and to the extent specified;
 - b. Terminate and settle all orders and subcontracts relating to the performance of the terminated Services;
 - c. Transfer all work in process, completed work, and other materials related to the terminated Services as directed by County; and
 - d. Continue and complete all parts of the Services that have not been terminated.

B. TERMINATION FOR NON-APPROPRIATION OF FUNDS

The County has no obligation to continue this Contract past the current fiscal year unless funding is lawfully appropriated by the Board of County Commissioners to enable continuance. If this Contract is terminated by the County for non-appropriation of funds, Contractor shall be entitled to payment for all Services performed to the satisfaction of the County and all expenses incurred under this Contract prior to termination. Contractor shall not be entitled to any other compensation, including anticipated profits on unperformed Services. The County shall provide Contractor a written notice of its intent to terminate at least thirty (30) days prior to the date of termination.

ARTICLE 9. TRANSITION SERVICES UPON TERMINATION

Upon termination or expiration of this Contract, Contractor shall cooperate with County to assist with the orderly transfer of the Services provided by Contractor to County or County's agent. Prior to termination or expiration of this Contract, County may require Contractor to perform and, if so required, Contractor shall perform, certain transition services necessary to shift the services of Contractor to another provider or to County itself as described below (the "Transition Services"). The Transition Services may include but shall not be limited to:

- A. Working with County to jointly develop a mutually agreed upon Transition Services plan to facilitate the termination of the Services;
- B. Executing the Transition Services plan activities;

- C. Answering questions regarding the Services on an as-needed basis; and
- D. Providing such other reasonable Services needed to effectuate an orderly transition to a new service provider or to County.

ARTICLE 10. DISPUTE RESOLUTION

The Parties shall cooperate in good faith to resolve any disputes that arise under this Contract. Any dispute resolution constituting a material change in this Contract shall not be final until an amendment to this Contract has been approved and executed under the same formalities as this original Contract. If such dispute involves the percentage of the Services completed by Contractor, County shall, as promptly and reasonably as possible after resolution of such dispute, forward payment to Contractor of any amount that is determined to be owed by the County.

Contractor agrees it must in good faith exhaust all dispute resolution efforts prior to instituting any action in court or before any administrative agency or tribunal.

ARTICLE 11. COMPLIANCE WITH LAWS

All Services rendered or performed by Contractor pursuant to the provisions of this Contract shall be in compliance with all applicable local, state and federal laws and ordinances. Contractor shall have and keep current at all times during the term of this Contract all licenses and permits as required by law to perform the Services hereunder.

ARTICLE 12. NON-DISCRIMINATION

Contractor shall not discriminate against any employee or applicant for employment or client/customer availing themselves of the Services to be performed hereunder because of race, color, sex, creed, national origin, disability, or age. No person shall, on the grounds of race, color or national origin be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract.

ARTICLE 13. MAINTENANCE OF RECORDS; AUDITS; LICENSES

- A. Contractor shall maintain records, accounts, property records, and personnel records in accordance with generally accepted accounting principles, as deemed necessary by County to assure proper accounting of funds and compliance with the provisions of this Contract.
- B. Contractor shall provide County all information, reports, records, and documents required by this Contract or by County ordinances, rules or procedures, or as needed by County to monitor and evaluate Contractor's performance. Such materials shall also be made available to County upon request for any purposes. Inspection or copying will occur during normal business hours, and as often as County may deem necessary. County shall have the right to obtain and inspect any audit pertaining to the performance of this Contract or Contractor

made by any local, state or federal agency. To the extent such materials are in the possession of a third party, Contractor must obtain them from that third party, or certify in writing to County why it was unable to do so. Contractor shall retain all records and supporting documents related to this Contract in accordance with all applicable laws, rules and regulations, and, at a minimum, retain all records and supporting documents related to this Contract, except duplicate copies or drafts, for at least three (3) years after the termination or expiration date of this Contract.

- C. Contractor shall obtain any licenses required to provide the Scope of Services and maintain full compliance with any licensure requirements. Copies of reports provided to or by any licensing or regulatory agency shall be forwarded to County within ten (10) days of receipt by Contractor. Contractor shall immediately notify County if the required licenses of any of its principles or agents working on this Contract are terminated, suspended, revoked or are otherwise invalid and/or are no longer in good standing.

ARTICLE 14. PUBLIC RECORDS

Pursuant to Florida Statutes §119.0701, to the extent Contractor is performing Services on behalf of County, Contractor shall:

- A. Keep and maintain public records that would ordinarily be required by County to perform the Services.
- B. Upon request from County's custodian of public records, provide County 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 from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if Contractor does not transfer the records to County.
- D. Upon completion of this Contract, transfer, at no cost, to County all public records in possession of Contractor or keep and maintain public records required by County to perform the Services. If Contractor transfers all public records to County upon completion of this Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from County's custodian of public records, in a format that is compatible with the information technology systems of County.

IF COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THEIR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (386) 313-4005, PUBLICRECORDS@FLAGLERCOUNTY.GOV, AND 1769 E. MOODY BLVD., BLDG. 2, BUNNELL, FL 32110.

ARTICLE 15. INDEMNIFICATION

The Contractor shall defend, indemnify, and hold harmless the County, its officers, employees and agents, from any and all third-party claims, liabilities, loss, or cause of action for property damage or bodily injury, including death, arising out of any negligent actions or omissions of the Contractor, its agents, officers, employees or agents in the performance of this Contract, including without limitation, defects in design, or errors or omissions that result in material cost increases to the County. Such indemnification shall include, but not be limited to, the payment of all valid claims, losses, and judgements of any nature whatsoever in connection therewith and the payment of all related fees and costs, including attorneys' fees, incurred by the County as a result, directly or indirectly, of the fault of the Contractor. Notwithstanding the foregoing, in no instance shall the Contractor be liable for the negligent acts or omissions of the County, its agents, officers, or employees. The Contractor's indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to the County or deemed to affect the rights, privileges and immunities of County as set forth in Section 768.28, Florida Statutes.

ARTICLE 16. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing herein shall be interpreted as a waiver by County of its rights, including the limitations of the waiver of immunity as set forth in Florida Statutes §768.28, or any other statutes or immunities. County expressly reserves these rights to the full extent allowed by law. Nor shall any part of this Contract be construed as a consent by the County to be sued by third parties.

ARTICLE 17. INSURANCE

- A. Contractor shall, at its own cost and expense, acquire and maintain (and cause any subcontractors, representatives, or agents to acquire and maintain) insurance policies that comply with the Insurance Requirements, attached as **Exhibit D**, during the term of this Contract, to include any renewal terms.
- B. Certificates of Insurance and copies of policies evidencing the insurance coverage specified in **Exhibit D** shall be filed with the County's Procurement Official before the Effective Date of this Contract. The required certificates shall identify the type of policy, policy number, date of expiration, amount of coverage, companies affording coverage, shall refer specifically to

the title of this Contract, and shall name Flagler County as an additional insured, except with regard to Workman's Compensation. No changes shall be made to the insurance coverage without prior written approval by County's Risk Manager.

- C. If the initial insurance expires prior to the termination of this Contract, renewal Certificates of Insurance and required copies of policies shall be furnished by Contractor and delivered to the Procurement Official thirty (30) days prior to the date of their expiration.

ARTICLE 18. SOLICITATION OF AGREEMENT

Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person other than an employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, contingent fee, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, County shall have the right to annul this Contract without liability, or at its discretion, to deduct from this Contract price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

ARTICLE 19. ASSIGNMENT AND SUBCONTRACTING

Contractor shall not assign or transfer any right or duty under this Contract to any other party without the prior written consent of County. Assignment, pledging, sale, transfer or encumbering of any interest or rights under this Contract, to anyone other than the Contractor, without the prior written consent of the County, shall be grounds for immediate termination of this Contract.

In the event Contractor asserts it is necessary to utilize the services of third parties to perform any Services under this Contract, Contractor shall first obtain prior written approval of County.

Approval to utilize any third party shall not relieve Contractor from any direct liability or responsibility to County pursuant to the provisions of this Contract, or obligate County to make any payments other than payments due to Contractor as outlined in this Contract. All terms and conditions of this Contract shall extend to and be binding on any approved purchaser, assignee, or other successor in interest.

ARTICLE 20. KEY PERSONNEL

The following key personnel are hereby assigned to this Contract by Contractor:

Brian Wintjen RVP and Heather Badger, Division Manager

Contractor shall not remove such key personnel from providing the Services contemplated by this Contract; provided, however, that the removal of such personnel due to their incapacity, voluntary termination, or termination due to just cause will not constitute a violation of this

Contract. The County will require that, at a minimum, any proposed replacement have equal or greater qualifications and experience as the key personnel being replaced. Contractor shall not make any personnel changes of the key personnel until written notice is made to and approved by the County.

ARTICLE 21. SUB-CONTRACTORS

Contractor shall request and receive prior written approval of County before the use of any sub-contractors.

ARTICLE 22. NOTICES

All notices, requests and authorizations provided for herein shall be in writing and shall be delivered by hand or mailed through the U.S. Certified Mail, return receipt requested, with a courtesy Email copy as well, addressed as follows:

To County:

Flagler County Government

Purchasing Division

1769 East Moody Blvd., 3rd floor, Bunnell, FL 32110

386-313-4008

purchasing@flaglercounty.gov

To Contractor:

Waste Pro of Florida, Inc.

401 S. Bay Street, Bunnell, FL 32110

352-553-8693

bwintjen@wasteprousa.com

ATTN: Brian Wintjen, RVP

ARTICLE 23. RELATIONSHIP OF PARTIES

The relationship of Contractor to County shall be that of an independent contractor. Nothing herein contained shall be construed as vesting or delegating to Contractor or any of the officers, employees, personnel, agents, or sub-contractors of Contractor any rights, interest or status as an employee of County. County shall not be liable to any person, firm or corporation that is employed by Contractor or provides goods or services to Contractor in connection with this Contract or for debts or claims accruing to such parties. Contractor shall promptly pay, discharge or take such action as may be necessary and reasonable to settle such debts or claims.

ARTICLE 24. PUBLIC ENTITY CRIMES

Contractor has been made aware of the Florida Public Entity Crimes Act, Florida Statutes §287.133, specifically subsection 2(a), and County's requirement that Contractor comply with it in all respects prior to and during the term of this Contract.

ARTICLE 25. FORCE MAJEURE

Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations or any of them singularly is delayed or prevented by Force Majeure. For the purpose of this Contract, a Force Majeure shall be defined in accordance with the common law of the State of Florida as being an event or circumstance beyond the control and authority and without the fault or negligence of the party seeking relief under this Section. The maximum relief granted to either party under this Section shall be the tolling of time for the duration of the Force Majeure. A Force Majeure may be deemed to excuse performance pursuant to this Agreement only to the extent such performance is actually prevented or precluded by such Force Majeure.

ARTICLE 26. GOVERNING LAW, JURISDICTION AND VENUE

This Contract shall be governed by the laws of the State of Florida not including Florida's conflict of laws jurisprudence. Venue for any dispute under this Contract shall be in the Circuit Court of the Seventh Judicial Circuit in and for Flagler County, Florida.

ARTICLE 27. ATTORNEY FEES

In the event of any litigation arising under the terms of this Contract, the non-prevailing party shall pay the attorneys' fees of the prevailing party, including appellate fees.

ARTICLE 28. PATENT AND COPYRIGHT RESPONSIBILITY

Any material or design specified by Contractor or supplied by Contractor pursuant to this Contract shall not knowingly infringe any patent or copyright, and Contractor shall be solely responsible for securing any necessary licenses required for patented or copyrighted material utilized by Contractor in the performance of the Services.

ARTICLE 29. INTEGRATION, AMENDMENTS, AND FURTHER ASSURANCES

This Contract and Exhibits referenced herein constitute the entire Contract between the parties with respect to subject matter and mutually agree that no verbal agreements, representations, warranties or other understandings affecting the same exist. No amendment hereof shall be effective until and unless reduced to writing and executed by the parties. The parties shall execute any additional documents as may be necessary to implement and carry out the intent of this Contract.

ARTICLE 30. SEVERABILITY

It is understood and agreed by the parties hereto that if any part, term, or provision of this Contract is held by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular part, term or provision held to be invalid.

ARTICLE 31. HEADINGS, CONSTRUCTION

The parties agree that they have each participated in the drafting of this Contract and that the rules with respect to construing ambiguities against the drafter of a contract shall not apply in any action or litigation regarding this Contract. All articles and descriptive headings of paragraphs of this Contract are inserted for convenience only and shall not affect the construction or interpretation hereof.

ARTICLE 32. PURCHASING AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES

The County hereby authorizes the Contractor to extend the pricing, terms, and conditions of this Contract to other governmental entities upon mutual agreement between Contractor and other such governmental entities. Each governmental entity desiring to utilize pricing, terms, and conditions of this Contract, shall do so independently of the County and any other governmental entity. Each governmental entity shall be responsible for its own purchases, and each shall be liable only for materials and/or services ordered and received by it, and no governmental entity assumes any liability by virtue of an award by any other governmental entity.

ARTICLE 33. TIME IS OF THE ESSENCE

Time is of the essence for each and every obligation under this Contract.

ARTICLE 34. AUTHORITY TO EXECUTE

Each of the Parties hereto covenants to the other Party that it has lawful authority to enter into this Contract and has taken all steps necessary to authorize the execution of this Contract by the individuals below.

ARTICLE 35. ADVERTISING

Contractor agrees not to use any representation of the County (e.g., logo, name) as a part of any commercial advertising, without the express written approval and prior authorization by the County.

[Remainder of page intentionally left blank; Signature pages to follow.]

IN WITNESS WHEREOF, the undersigned have executed this Contract on the day and year set forth below.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS:**

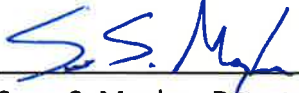
ATTEST:

Gregory L. Hansen, Chair

Tom Bexley, Clerk of the Circuit
Court and Comptroller

Date

APPROVED-AS-TO-FORM:



Sean S. Moylan, Deputy County
Attorney

As authorized for execution by the Flagler County Board of County Commissioners at its regular meeting on the ____ day of _____ 2023.

[SIGNATURE PAGE TO FOLLOW.]

WASTE PRO OF FLORIDA, INC.

Brian Wintjen
Signature

Brian Wintjen
Printed Name

RVP
Title

3/17/23
Date

ATTEST:

Heather Felmet
Signature

Heather Felmet
Printed Name

Division Manager
Title

EXHIBIT A SCOPE OF SERVICES

A.01 SCOPE

Contractor shall furnish all equipment, labor, materials, supplies, licensing, transportation, and other components necessary to provide solid waste management Services that will meet the requirements herein.

A.02 SERVICE AREA

The service area includes all unincorporated areas of the County. The service area may be adjusted if lands are added to or removed from the service area during the term of the Contract. Contractor shall provide the Services to all residential households within the service area.

At least once per month, the County shall provide the Contractor with a list of all new residential certificates of occupancy issued so that the new households may be included within the Contractor's service.

A.03 GENERAL REQUIREMENTS

Contractor shall provide the following requirements:

- A. Two, 18-gallon Contractor-owned recycling containers for collection of recyclables for each property. Contractor shall provide recycling bins to new solid waste customers added after the effective date of this Contract at no charge. Upon request by existing customers, Contractor will provide replacement recycling bins at no charge.
- B. Installation of either six (6) or eight (8) cubic yard dumpsters, in Contractor's discretion, at each County facilities (see Exhibit E). Eight cubic yard dumpsters must have side slider access for disposal.
- C. Submit invoices for services to County one time per month.
- D. Maintain all licenses and permits required by Florida Statute and County ordinance to provide residential waste management services.
- E. Perform the Services in accordance with law.
- F. A local, Flagler County customer service telephone number and local office which is staffed, at a minimum, Monday through Friday, excluding County holidays, from 9:00 A.M. to 4:00 P.M., to document and respond within 1 business day to all inquiries, issues, and legitimate complaints from the County and customers.
- G. Ensure customer service office staff are familiar with the requirements of this Contract and its obligations.
- H. A local dispatch office and equipment yard, preferably in Flagler County.
- I. A two-way communication for immediate contact between office staff, Contractor's supervisory personnel, collection personnel, and the County Contract Manager.

- J. Utilize a County approved formal process for receiving and handling emergency calls both during and after business hours in a timely manner.
- K. Perform Services in a manner that minimizes noise and disruption of traffic flow.
- L. Notify the County Contract Manager regarding a customer that routinely fails to comply with the customer requirements in this Contract. The County Contract Manager, in his/her sole discretion, will take action as deemed appropriate.
- M. Develop the design and content for non-collection notices and provide to the County Contract Manager for review and approval. At a minimum, notices must contain the date issued, justification for not collecting, recommendations to the customer on how to correct the non-compliance, and Contractor's contact phone and email address for any questions related to the notice.
- N. Provide the Services in compliance with the County approved routes and schedules which are incorporated herein by this reference.
- O. With approval by the County Contract Manager, and prior notification to customers, waive the provision of services on Thanksgiving Day, Christmas Day, and New Year's Day.
- P. Provide a collection plan within 15 days of execution of this Contract for approval by the County that includes the following:
 1. Collection routes with maps for each scheduled collection day
 2. Vehicles and equipment to be used for each type of collection
 3. Facilities for disposal of collected materials
 4. Billing processes and procedures
- Q. Update the collection plan at any time permanent changes are made.
- R. Ensure its employees operate collection vehicles and equipment in compliance with all applicable traffic and safety laws including, but not limited to, Florida Statutes, Chapter 316, Uniform Traffic Control Law.
- S. Maintain all necessary licenses and registrations on its vehicles and equipment, as required under Applicable Laws.

A.04 SERVICE REQUIREMENTS

Contractor's services shall be provided between the hours of 6:00 AM and 6:00 PM and include but not be limited to the items below. The County Contract Manager shall grant relief to Contractor from collection and disposal services to any household if the County Contract Manager confirms that household is disposing of solid waste generated by a commercial business or enterprise.

- A. Collection of household garbage at curbside two times per week set out in up to four garbage cans or bags provided by the customer not to exceed 35 gallons and a 50 pound limit or in carts with a capacity of less than 96 gallons.
- B. Collection of bulk items (e.g., furniture) one time per week at curbside, maximum of three cubic yards (approximately the size of two washing machines or the size of two couches). Contractor is not obligated to collect a bulk item that is too large or too heavy to safely load

and transport in a clamshell truck. Contractor shall tag bulk items not collected, providing an explanation to the customer.

- C. Collection of recyclables (e.g., plastic and glass bottles, aluminum and steel cans, cardboard, and newspaper) at curbside one time per week. Collection of recycled materials is subject to change based upon what the disposal facility will accept. Contractor shall notify County Contract Manager and customers at least 10 days in advance of any changes to the collection of recycled materials.
- D. Collection of yard waste (e.g., small limbs, grass clippings, leaves) at curbside one time per week, maximum of four (4) cubic yards (approximately 3'x3'x12' in size) per household per pickup. Yard Waste shall be either tied in a bundle, neatly stacked, or placed in a can or bag, and placed at the curbside. If bagged, a limit of eight 96 gallon or fourteen 55-gallon yard waste bags per household per service. The limit of material size for Yard Waste is that no piece should exceed five feet in length or six inches in diameter, no can or bag shall exceed fifty (50) pounds in weight. Contractor shall tag yard waste not collected, providing an explanation to the customer.
- E. Collection of "call ahead" pickup for white goods (e.g., large appliances) one time per week at curbside within three days of customer request. Customers and Contractor are not required to remove freon, coolants or other similar materials from white goods prior to pick up. However, Contractor shall take steps to minimize the release of such materials during collection and disposal,
- F. Disposal or processing of solid waste materials at a duly licensed facility. Contractor shall be responsible for the disposal fees or processing fees charged by the disposal facility or processing facility for County solid waste.
- G. Empty and dispose of waste from dumpsters located at County facilities a minimum of one time per week. NOTE: additional service for emptying dumpsters may be requested by the County. If the County Contract Manager notifies the Contractor that a dumpster is full, Contractor shall empty the container within twenty-four hours.
- H. Production and distribution of training and educational materials for new customers regarding Services.
- I. A website for access by customers that is regularly updated with public information such as recycling guidance, collection schedules, changes in collection schedules and the promotion of any new services.
- J. On-going community outreach regarding waste management services at a minimum of four (4) community events designated by the County Contract Manager each fiscal year. The County Contract Manager shall designate the number, size, and type of containers required for each event, and the locations where the containers will be placed. For collection service in excess of four (4) events in any fiscal year, the Contractor shall provide the requested service, and may charge the County for its services. Charges for such services shall be negotiated and agreed upon prior to the event.

- K. Prompt and courteous attention to, and reasonable resolution of, all customer service requests and issues as further defined in this Scope.
- L. Providing a monthly report to the County of all customer service requests and issues and the resolution thereof.
- M. Providing an annual report to the County of the number of tons collected for each of the following categories:
 - 1. Garbage + Bulk
 - 2. White Goods
 - 3. Yard Waste
 - 4. Recyclables
- N. The list of recyclables accepted in the curbside program includes the following, provided however, that this list is subject to change based on the ability of the Materials Recovery Facility to process the material.
 - a. Paper Items: All office paper, white paper, colored paper, newspaper, magazines, catalogs, phonebooks, junk mail, paperboard, tissue boxes, manila folders, paper towel rolls, toilet paper rolls, unwaxed food packaging, shredded paper, soft cover books, hard cover books (with the cover removed), paper coffee cups, un-foil wrapping paper, brown paper bags.
 - b. Cardboard: Corrugated cardboard, clean pizza boxes (no grease contaminants, food and wax paper removed), boxboard (i.e.: shoeboxes, gift boxes, cereal, and pantry boxes).
 - c. Metal: Metal and tin beverage containers, metal and tin food containers, clean aluminum foil, aluminum take out containers, aluminum pie plates and trays, kitchen cookware (i.e., metal pots, tins, utensils, etc.), empty aerosol hairspray cans.
 - d. Glass: All glass food containers, jars, beer, and wine bottles.
 - e. Plastic: All plastics 1-7 (with the EXCEPTION of polystyrene or Styrofoam which is sometimes labeled #6), food and beverage containers, screw top jars/containers (ketchup, mustard, mayonnaise, etc.), deli-style containers, take out containers, plastic cups (remove the straw) milk and juice jugs, soap bottles, shampoo, laundry detergent, all other plastic jug or bottles, plant containers (if it is labeled on the bottom with a 1-7), cd/cassette/DVD cases.

A.05 SPECIAL COLLECTION SERVICES

Upon approval by the County, Contractor shall provide special side door collection service on the scheduled collection days to a Customer with a disability if: (a) the Customer is entitled to receive Residential Collection Service if there is no other resident at the address available to bring the garbage to the curb; (b) the Customer has requested, and the County Contract Manager has approved. The Customer's garbage shall be collected at the Customer's side yard, at a location that is mutually acceptable to the Contractor and the Customer and visible from the street. However, the Contractor is not required to provide side door service for the collection of Bulky Items or White Goods or Yard Waste.

A.06 COLLECTION OF MIXED LOADS

- A. During the Collection process, the Contractor shall not combine solid waste collected in the service area with solid waste or other materials collected outside of the service area.
- B. Program Recyclables shall be handled separately by the Contractor and shall not be combined with any other type of material, without the County Contract Manager's prior approval. The Contractor is not required to separate these materials if a customer placed them in a collection container with other types of solid waste.
- C. Notwithstanding the foregoing, the County Contract Manager may waive any of the restrictions in this Section and allow the Contractor to combine different types of solid waste, if the County Contract Manager determines that the waiver will be in the public interest. In such cases, the Contractor shall file a petition with the County Contract Manager, describing the specific procedures that will be established to properly account and pay for the management of the mixed materials. The County Contract Manager, in their sole discretion may grant or deny the petition. Any granted waiver shall be provided to Contractor in writing.

A.07 EXEMPTED WASTE

The following types of waste are not subject to the Contractor's obligations under this Contract unless otherwise provided for herein. This Section does not prohibit the Contractor from collecting the following exempt waste, provided that the Contractor complies with all applicable law when collecting such material:

- A. Land Clearing Debris.
- B. Yard Waste generated by a commercial lawn care company or plant nursery.
- C. Roofing materials generated by a roofing company.
- D. Solid waste generated on the premises of a commercial or business entity.
- E. Excavated fill and earthen material.
- F. Solid waste and by-products generated from an industrial process.
- G. Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- H. Animal bedding, animal wastes, and other trash and materials resulting from farming, equestrian, or agricultural operations.
- I. Wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts, including used oil, tires, and lead-acid batteries.
- J. Boats, boat motors, and boat trailers.
- K. Disaster debris, except as otherwise provided herein.
- L. Hazardous Material, Biomedical Waste, and Radioactive Waste.
- M. Sludge.

A.08 COLLECTION OF CONTAMINATED OR HAZARDOUS MATERIALS

A. Recycled Materials

Pursuant to Section 403.706 Florida Statute, should Contractor see contaminated recyclable material in a recycling bin, the Contractor shall:

1. Place a non-collection notice on the recycling bin;
2. Place a Contractor provided hanger or other educational materials on the recycling bin; and
3. Leave the contaminated recyclable material in the recycling bin at curbside.

These actions constitute the education and enforcement measures that the Contractor is responsible for implementing when providing collection Services. The Contractor shall notify the County Contract Manager of such non-collection notice within twenty-four (24) hours of issuing the notice. Further, the County, at its discretion, may implement educational and enforcement programs promoting proper recycling techniques to residents.

B. Hazardous Materials

The Contractor shall not collect solid waste from a customer if the Contractor believes the waste contains hazardous material, radioactive waste, or biomedical waste. In such cases, the Contractor shall place a non-collection notice on the collection container, take photographs of the improper waste (if possible), and immediately notify Contractor's field supervisor.

If the generator of such waste is unknown, the Contractor shall work with the County Contract Manager to identify the generator and identify an appropriate method to remove and dispose of the waste in a lawful manner. If the Contractor elects to collect the waste prior to approval by the County Contract Manager, the Contractor shall be solely responsible for the management and disposal of the waste, including the payment of all associated costs. The County Contract Manager shall be notified by Contractor of each non-collection notice given to customers within twenty-four (24) hours of issuance.

A.09 COLLECTION PROCEDURES

When providing collection services Contractor shall:

- A. Handle customer containers in a manner to prevent damage.
- B. Thoroughly empty the Customer's containers and return them in an upright position, with lids closed if applicable.
- C. Return containers to the location where they were placed by the customer. The Contractor shall not place a collection container in a location where the container blocks vehicular access to a road, alley, or driveway.
- D. Take appropriate steps to minimize the release of Freon, coolants, and other similar materials from white goods. The customer and the Contractor are not required to remove Freon, coolants, or other similar materials from white goods.

- E. Not cause or allow any solid waste, liquid, or other material from collection containers to be spilled, dispersed, or released on County property, streets, roads, right of ways, or customer property. Each Collection vehicle shall fully enclose the Contractor's Load. Contractor shall immediately pick up any solid waste, liquid, or other material that is spilled, dispersed, or released by Contractor.
- F. Subject to Florida Statutes §403.413, use a covered or enclosed vehicle or other device when hauling or transporting any material over public roads. If solid waste falls, blows, or otherwise escapes from the vehicle, Contractor shall immediately stop and collect such material.
- G. Immediately clean up any oil, hydraulic fluid, or other vehicle liquid that leaks or spills from its vehicles on County property, streets, roads, right of ways, or customer property and repair any damage as directed by the County.

A.10 MISSED COLLECTIONS

Upon notification by the County Contract Manager or a customer of a missed collection, Contractor shall return, within twenty-four hours of the notification, to the customer's residence and collect the solid waste that are set out for collection.

A.11 CUSTOMER COMPLIMENTS, REQUESTS, COMPLAINTS AND DISPUTES

Contractor shall maintain an electronic automated tracking system(s) for the entry, notification, and resolution of customer compliments, requests or complaints that:

- A. Provides administrative access to the County Contract Manager to the automated system to:
 - 1. Monitor complaints
 - 2. View compliments
 - 3. Identify locations of the customer complaints in real-time
 - 4. Compare current and historical complaints
 - 5. Create reports identifying open, pending and closed work orders
- B. Allows customers access from the County website to input complaints, requests, and compliments.
- C. Is customized to County reporting requirements.
- D. Notifies the Contractor and County Contract Manager once the requests or complaints are entered.
- E. Notifies the Contractor and County Contract Manager once the request or complaint has been addressed or resolved.
- F. Is real-time and all data is made available to all users as soon as it is entered into the system.

Contractor shall:

- A. Promptly initiate its response to a legitimate complaint or request entered in the automated system, taking the necessary steps to remedy the cause by the end of the operating day for entries received before 12:00 p.m. on an operating day or for complaints or requests received outside of operational hours, remedy before 12:00 p.m. on the next operational day. The

County Contract Manager may grant additional time to remedy when the Contractor is unable to remedy within the time provided herein.

- B. The Contractor shall promptly notify the County Contract Manager when a dispute with a customer cannot be resolved and for disputes the Contractor has not been able to resolve within two operating days of receipt. The County Contract Manager shall evaluate the facts concerning such disputes, make an impartial determination for resolution and notify the Contractor and the customer in writing with a decision. The Contractor and Customer shall have three operating days to comply with the County Contract Manager's decision or may submit a written request for a hearing before the County Administrator. If a request is filed, the County Administrator shall act upon such request within thirty (30) days and provide the parties an opportunity to present their arguments and evidence concerning the relevant issues. The County Administrator shall notify the customer, the Contractor, and the County Contract Manager in writing of his/her decision which is final and is not subject to further appeal to the County.

A.12 PROTECTION OF PRIVATE PROPERTY

- A. The Contractor's employees shall not trespass on private property; provided, however, the Contractor's employees may walk on a customer's property when necessary to provide collection service (e.g., side door service) pursuant to this Contract. At all other times, the Contractor's employees shall follow the sidewalks for pedestrians and shall not cross a Customer's property to an adjoining property, unless the occupants or owners of both properties have given permission.
- B. Contractor's employees shall not loiter on or meddle with any private property.
- C. Contractor shall promptly investigate and respond to any claim concerning property damage.
- D. The Contractor shall be solely responsible for all costs and liabilities associated with the repair/restoration/replacement of any property that has been damaged by Contractor's equipment, employees, subcontractors, or agents. Contractor's employee shall immediately notify their supervisor and the property owner. If the property owner is not known or readily identifiable, the driver shall leave a notice that includes the Contractor's name and telephone number.
- E. Contractor shall immediately notify the County Contract Manager when property is damaged by Contractor, its equipment, employees, subcontractors or agents.
- F. For all damaged property for which the Contractor is responsible, Contractor shall, before the end of the next business day, complete the repair/restoration/replacement of property to its original condition before the damage. If damage cannot be restored within one business day, completion time shall be established by the County Contract Manager. Failure by Contractor to complete the repair within the time period prescribed, may result in completion of the repairs by the County and the cost thereof, plus ten percent (10%) for administrative expenses, deducted from the next payment due to the Contractor.
- G. Contractor shall immediately notify the County Contract Manager to mediate and determine liability for any dispute between Contractor and the property owner regarding damage.

A.13 RESTRICTED ACCESS

- A. Except as otherwise provided herein, the Contractor shall have the right to use all of the public roadways in the County with the understanding that collection vehicles on narrow and dead-end streets, unpaved streets, private roads, and other areas where access is limited, may require smaller vehicles.
- B. Contractor's vehicles shall not:
 - 1. Enter or drive upon any private driveway or improved property, unless the Contractor has received the owner's prior permission to do so.
 - 2. Interfere with vehicular or pedestrian traffic. Contractor's vehicles shall not be left unattended on streets or alleys.
- C. The County reserves the right to deny the Contractor's vehicles access to certain roadways during repairs, or as the County otherwise determines it to be in the public's best interest to restrict access and will provide the Contractor with reasonable notice of such restrictions. If access is denied, Contractor shall return no later than the next operating day to provide the scheduled collection service. If access is restricted on the second attempt, Contractor shall return on the next scheduled collection day for that service. If access is denied for any extended period of time, the Contractor shall work with the customer to determine a mutually acceptable location for collection. If mutual agreement cannot be reached, the Contractor shall provide collection service from the nearest public roadway that is accessible by the Contractor's collection vehicle or from a location specified by the County Contract Manager.
- D. If the Contractor encounters a Customer or situation (e.g., dogs; narrow streets; low-hanging electrical wires) that prevents the Contractor from gaining the access needed to provide the collection Services required in this Contract, and the Contractor is unable to resolve the issue with the Customer, then the Contractor shall report the problem to the County Contract Manager and the County Contract Manager shall resolve the problem. The County Contract Manager may require the Contractor and the Customer to take such actions as the County Contract Manager deems necessary and appropriate to enable the Contractor to provide collection Services to the Customer.

A14. CUSTOMER LIST

The residential customer list shall be based on the County's records. The County shall notify the Contractor promptly after a Certificate of Occupancy is issued by the County for a new address that is added to the customer list. After receiving this notification, the Contractor shall provide Collection Services and begin invoicing the County for the address.

A.15 CONTRACTOR SAFETY PROGRAM

The Contractor shall develop, implement, and maintain a written safety plan for all of its operations under this contract. The safety plan shall comply with the requirements in OSHA and applicable laws. A written copy and an electronic copy of the safety plan shall be provided to the

County Contract Manager for informational purposes. The County's receipt of the safety plan shall not constitute the County's approval of the plan or the appropriateness of such plan. The Contractor shall comply with its safety plan at all times.

A.16 COLLECTION VEHICLES

- A. All collection vehicles used by the Contractor shall be a model year less than nine (9) years old, unless it is used only as a reserve vehicle or as otherwise approved by the County Contract Manager.
- B. All vehicles used to provide Services shall be equipped at all times with safety equipment required by law; (a) a fire extinguisher; (b) a shovel and broom; (c) a spill response kit; (d) an audible back-up warning device; and (e) back-up cameras.
- C. Vehicle spill response kits shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from Contractor's Collection vehicles.
- D. All vehicles used to provide services shall be equipped with a two-way radio, cellular telephone, or other equipment appropriate for communications between the vehicle operator, their supervisor, and Contractor's district manager.
- E. All vehicles shall be equipped with global positioning systems ("GPS") and 360-degree cameras that identify and record the locations of the vehicles and the activities of Contractor's employees. Contractor shall provide the County with full access to view GPS and camera data.
- F. Contractor shall have sufficient vehicles and equipment available to complete daily collection routes according to the established schedules. Reserve vehicles and equipment shall be ready to go into service within two (2) hours of any breakdown or delay experienced by a front-line vehicle.
- G. Contractor shall maintain all collection vehicles and equipment painted and cleaned to minimize the potential for odors and nuisance conditions.
- H. Contractor shall monitor, maintain, and repair its collection vehicles and equipment to prevent fuel, lubricants, and other liquids from leaking or spilling.
- I. Contractor's name, contact telephone number and vehicle identification shall be displayed at all times, in letters at least four (4) inches high, on the driver's side and the passenger's side of each of collection vehicle. Vehicle identification numbers shall also be displayed on the front and rear of collection vehicles.

A.17 CONTRACTOR PERSONNEL

Contractor shall:

- A. Use qualified personnel to provide the services who meet the Florida Crime Information Center Level 1 background screening. This screening shall be at no cost to the County. Additional screening shall include, but is not limited to, employment history checks, statewide criminal background screening through the Florida Department of Law Enforcement, and driver's license verification, as is applicable to the employee's assigned

role.

- B. Use E-Verify to confirm authorization to work in the United States for all employees and subcontractors who will provide services under this Contract.
- C. Contractor shall provide on-going training to its employees, as needed, to ensure compliance with the requirements of this Contract and all applicable laws.
- D. Appoint an employee with a minimum of five years of prior supervisory experience who will serve as the district manager and primary point of contact with the County for all technical and administrative matters. District manager must be accessible by the County via phone or email between the hours of 9:00 a.m. and 6:00 p.m., Monday through Friday, excluding County holidays.
- E. Provide the necessary level of authority to the district manager to make decisions regarding the day-to-day provision of services and direct access to executive management for resolving issues.
- F. Appoint an employee(s) as the field supervisor(s) with a minimum of five years of prior supervisory experience in residential waste management services to oversee collection services. The field supervisor(s) shall have immediate access to transportation between 6:00 A.M. and 6:00 P.M. for on-site response to resolve issues. Field supervisor(s) must be accessible by the County via phone or email between the hours of 9:00 a.m. and 6:00 p.m., Monday through Friday, excluding County holidays.
- G. Ensure its personnel (employees and subcontractors) maintain a courteous and respectful behavior in its interactions with the customer at all times – avoiding loud and profane language or disorderly conduct during the performance of their duties. The County Contract Manager shall meet with Contractor’s district manager to discuss concerns regarding Contractor personnel conduct. The County Contract Manager at his/her sole discretion, reserves the right to request removal of any Contractor personnel assigned to work under this Contract for cause. Contractor shall defend, save, and hold the County harmless from and against all legal actions or other proceedings brought by any employee or subcontractor so removed.
- H. Ensure each employee is attired in a manner commensurate with their position that includes a Contractor identifying name tag and/or company logo.
- I. Ensure its drivers/operators possess a valid Florida driver’s license for the type of vehicle or equipment being operated.
- J. Comply with all applicable laws concerning the protection and rights of employees, including but not limited to equal employment opportunity laws, minimum wage laws, immigration laws, the Americans with Disabilities Act, and the Fair Labor Standards Act.
- K. Provide collection services with direct hire employees to the greatest extent practicable.
- L. Provide notice to the County Contract Manager in advance when the use of temporary or subcontracted labor is anticipated for pre-approval by the County.

A.18 CUSTOMER RESPONSIBILITIES

Each customer shall:

- A. Purchase and provide their own household garbage and yard waste containers that shall remain the property of the customer.

- B. Be responsible for cleaning, maintaining, and repairing their own household garbage and yard waste containers. Containers shall be maintained in good condition and be free from sharp edges or other hindrances to efficient collection services.
- C. Be responsible for cleaning and maintaining their recycling bins provided by Contractor.
- D. Be responsible for storing and replacing their own household garbage and yard waste containers.
- E. Be responsible for safe storage of Contractor provided recycling bins.

A.19 EXCLUSIVE CONTRACT AND EMERGENCIES

This is an exclusive Contract for collection and disposal of residential waste as defined in this Scope of Work. However, this Contract does not give the Contractor the exclusive right to collect disaster debris. In the event of a natural disaster or other County emergency, the County, at its discretion, may enter into a separate contract with the Contractor for disaster debris removal with fees to be negotiated at that time based upon current market rates and allowable fees. In addition, in the event of an emergency, the Contractor shall use all reasonable efforts to aid the County in the form of equipment, labor, and disposal services.

Further, during such disasters or emergencies, where in order to protect the health and safety of the public, the County may, in its sole discretion, permit or contract with other entities to collect, transport, or dispose of solid waste resulting from the disaster or emergency.

A.20 DISASTER SERVICES

Following a disaster such as a hurricane, tornado, or manmade event, the Contractor shall make it a high priority to resume collection services as soon as possible and the work under this contract shall take precedence over contractor's work for other clients. Under these circumstances, Contractor may submit a written request to the County Contract Manager for a variance from Contractor's regular routes and schedules. If the Contractor's request is granted, the Contractor shall furnish a map depicting the revised routes and shall provide the revised schedules in writing. Thereafter, the Contractor shall contact the County Contract Manager on a daily basis with a status update of when Contractor will resume the contracted routes and schedules.

Contractor shall develop and submit to the County Contract Manager within 30 days of execution of this contract a continuity of operations plan (COOP), which shall include Contractor's plan of action in the event that a disaster event renders the Contractor's operations yard or equipment unusable or prevents the Contractor's personnel from reporting for work. The COOP shall be reviewed and, if necessary, updated at least one time every five years and resubmitted to the County Contract Manager.

Upon request by the County, the Contractor shall attend County emergency management and disaster preparedness meetings and shall provide the County with any materials and information that may be useful to customers and the County's efforts.

A.21 COUNTY RESPONSIBILITIES

The County shall be responsible for:

- A. All billing and collections for County solid waste services.
- B. Providing expedient notification to Contractor of receipt of any issues or complaints from customers.
- C. Inspection of Contractor's collection vehicles at any time during the term of the Contract to ensure compliance with the requirements of this Contract. The County shall have the right, at its sole discretion, to require the Contractor to immediately remove from service any collection vehicle or equipment is not in compliance with the requirements.

A.22 ACCESSIBILITY

Contractor shall ensure all of its electronic information, documents, applications, reports, and deliverables required under the Agreement are in a format that meets the requirements of Section 504 of the Rehabilitation Act and best practices (W3C WCAG 2).

Where not fully compliant with these requirements and best practices, Contractor shall provide clear points of contact for each document and information technology to direct users in how to obtain alternate formats. Further, Contractor shall develop accommodation strategies for those non-compliant resources and implement strategies to resolve the discrepancies.

A.23 TITLE

The title to, and the property rights associated therewith, for the collection and disposal of residential solid waste under this Contract shall be the sole property of Contractor. For purposes of this Contract, the transfer of title occurs at the time that the items are deposited by customers at the curb for collection by Contractor until it is delivered to and accepted by a County approved disposal facility. Upon acceptance at the County approved disposal facility, title to the waste shall pass to the owner of the facility.

A.24 PRICE ESCALATION AND FEE ADJUSTMENT

A. Fee Adjustments Generally.

Contractor fees for solid waste management services shall remain firm for a period of one year and thereafter shall remain firm unless adjusted in accordance with the provisions of this Paragraph A.24. In addition, any increase in fees, whether an automatic increase based on CPI or pursuant to an approved request of the Contractor as described below or a combination of CPI increases and an approved request of the Contractor, shall not exceed ten

percent in any given year.

B. Automatic Fee Adjustments Based on Inflation.

Beginning June 1, 2024, and continuing each June 1st thereafter, the fees shall automatically increase or decrease based on the most recent twelve month change in the Bureau of Labor Statistics Consumer Price Index for Garbage and trash collection in U.S., city average, all Urban Consumers, not seasonally adjusted, Series ID CUUR0000SEHG02.

C. Fee Adjustments for Good Cause Shown.

In addition, the Contractor may request, in writing to the County Administrator, an adjustment in fees on or before March 1, 2024, and on or before each March 1st thereafter, for the reasons listed below. Provided however, that because this Agreement requires the fees be firm for a period of one year, any such request made in 2024 may not be based on occurrences during the first effective year of this Agreement, i.e., the period from June 1, 2023 to May 31, 2024. The County Administrator shall submit the proposal to the County Commission for approval. Any approved adjustment to the fees shall become effective June 1st after the request was made. The Board of County Commissioners decision shall be final and non-appealable.

The Contractor may request increases in fees in accordance with this paragraph for any of the following reason/s:

1. **A change in law.** For changes that has or will directly and materially affect Contractor's cost of providing its services under this Contract, the Contractor may submit a written proposal request for an adjustment in fees. Contractor's request shall be accompanied by data and analyses necessary for the County to fairly evaluate the proposed fee increase.
2. **Extraordinary or unusual changes in the cost of operations that could not reasonably be foreseen.** Contractor's petition shall contain a detailed justification for the fee adjustment demonstrating that Contractor has incurred an extraordinary increase in its costs due to factors beyond the Contractor's control. At its expense, the County may audit the Contractor's records to evaluate the Contractor's request.
3. **Changes in the disposal or processing location.** The Contractor shall notify the County in writing of any request for fee increase due to a change in location for the disposal or processing of solid waste. Contractor's petition shall contain a detailed justification for the fee adjustment demonstrating that Contractor has incurred an extraordinary increase in its costs due to factors.
4. **Changes in the value of recyclables.** The Contractor shall petition the County in writing

of any request for fee increase due to a reduction in value of recyclables it collects and transports to a processor. Contractor's petition shall contain a detailed justification for the fee adjustment demonstrating that Contractor has incurred a reduction in its revenues from the change.

A.25 FRANCHISE FEES

The Contractor shall pay franchise fees to the County in exchange for the rights and privileges granted to the Contractor pursuant to this Contract, including the exclusive right to provide residential solid waste management services in the County. The franchise fees shall be seven percent (7%) of the Contractor's total gross billing for services provided pursuant to this Contract. The Contractor will identify on its invoices to the County the gross compensation due, the franchise fee to be retained by the County, and the net amount of compensation to be paid by the County.

END OF EXHIBIT A

EXHIBIT B FEES SCHEDULE

Service	Monthly Fee to County	Annual Amount
Collection and Disposal of Residential Solid Waste (household garbage)	\$167,555.78 \$21.82 per residential unit	\$2,010,669.36
Collection and Disposal of Residential Bulk Items (e.g., furniture)	Included in residential rate	\$0.00
Collection and Disposal of Residential Recyclables (e.g., plastics, glass bottles)	\$45,382.89 \$5.91 per residential unit	\$544,594.68
Collection and Disposal of Residential Yard Waste (e.g., small limbs and grass clippings, 4 cubic yards per pickup)	\$33,173.28 \$4.32 per residential unit	\$398,079.36
Collection and Disposal of "Call Ahead" Pickup of White Goods (e.g., stoves, refrigerators)	Included in residential rate	\$0.00
Dumpsters for Collection and Disposal of Residential Solid Waste (currently 35 locations)	\$0.00	\$0.00
TOTALS	\$246,111.95 \$32.05 per residential unit	\$2,953,343.40 \$384.60 per residential unit

NOTE: Rates are based upon the current monthly household count (7,679) of the unincorporated areas of the County and are subject to increase or decreased based upon changes in the monthly household count.

EXHIBIT C AFFIDAVIT OF NO CONFLICT

STATE OF Florida
County OF Flagler

BEFORE ME, the undersigned authority, this day personally appeared [INSERT NAME] Brian Wintjen, as [INSERT TITLE] Region Vice President of Waste Pro of Florida, Inc. (hereinafter "Waste Pro"), with full authority to bind Waste Pro, who being first duly sworn, deposes and says that Waste Pro:

(a) Is not currently engaged and will not become engaged in any obligations, undertakings or contracts that will require Waste Pro to maintain an adversarial role against the County or that will impair or influence the advice, recommendations or quality of work provided to the County; and

(b) Has provided full disclosure of all potentially conflicting contractual relationships and full disclosure of contractual relationships deemed to raise a question of conflict(s); and

(c) Has provided full disclosure of prior work history and qualifications that may be deemed to raise a possible question of conflict(s).

Affiant makes this Affidavit for the purpose of inducing Flagler County, a political subdivision of the State of Florida, to enter into this Contract No. 22-048 for Residential Solid Waste Management Services.

DATED this 17 day of March, 2023

[Signature]
Signature

The foregoing instrument was sworn to and acknowledged before me this 17 day of March, 2023, by Brian Wintjen, as RVP of Waste Pro of Florida, Inc. He/she is personally known to me or has produced valid government issued identification.

[Signature]
Notary Public, State of Florida at Large



EXHIBIT D INSURANCE AND BOND REQUIREMENTS

The Contractor will not commence work under the resulting Agreement until all insurance coverages indicated by an "X" herein have been obtained. The Contractor shall obtain and submit to the Purchasing Division within ten (10) calendar days from the date of notice of intent to award, at its expense, the following minimum amounts of insurance (inclusive of any amounts provided by an umbrella or excess policy): Work under this Agreement cannot commence until all insurance coverages indicated herein have been obtained on a standard ACORD form (inclusive of any amounts provided by an umbrella or excess policy):

Automobile Liability Insurance Required Limits

Coverage must be afforded under a per occurrence policy form including coverage for all owned, hired and non-owned vehicles for bodily injury and property damage of not less than:

- \$1,000,000 Combined Single Limit; OR
- \$ 500,000 Bodily Injury and \$500,000 Property Damage
- \$10,000 Personal Injury Protection (No Fault)
- \$500,000 Hired, Non-Owned Liability
- \$10,000 Medical Payments

This policy shall contain severability of interests' provisions.

Commercial General Liability Insurance Required Limits (per Occurrence form only; claims-made form is not acceptable)

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name 'Flagler County, a political subdivision of the State of Florida' as an Additional Insured, and include limits not less than:

- \$1,000,000 Single Limit Per Occurrence
- \$2,000,000 Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal and Advertising Injury Liability
- \$50,000 Fire Damage Liability
- \$10,000 Medical Expense, and
- \$1,000,000, Third Party Property Damage
- \$N/A Project Specific Aggregate (Required on projects valued at over \$10,000,000)

This policy shall contain severability of interests' provisions.

Employer's Liability Insurance

Coverage limits of not less than:

- \$100,000 Each Accident
- \$500,000 Disease Each Employee
- \$500,000 Disease Policy Limit
-

Worker's Compensation Insurance

Coverage limits of not less than:

- Statutory workers' compensation coverage shall apply for all employees in compliance with the laws and statutes of the State of Florida and the federal government.
- If any operations are to be undertaken on or about navigable waters, coverage must be included for the US Longshoremen & Harbor Workers Act and Jones Act.

Should 'leased employees' be retained for any part of the project or service, the employee leasing agency shall provide evidence of Workers' Compensation coverage and Employer's Liability coverage for all personnel on the worksite and in compliance with the above Workers' Compensation requirements. NOTE: Workers' Compensation coverage is a firm requirement. Elective exemptions are considered on a case-by-case basis and are approved in a very limited number of instances.

When applicable, Contractor shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance covering liability.

- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Liability for Sudden and Accidental Occurrences, each claim and an aggregate.
- Amount equal to the value of the contract, subject to a \$1,000,000 minimum, for Liability for Non-Sudden and Accidental Occurrences, each claim and an aggregate.

BOND REQUIREMENTS

Performance Bond

A Performance Bond shall be submitted by Successful Contractor for 100% of the annual amount and shall be presented to Flagler County within ten (10) calendar days of issuance of the notice of intent to award.

INSURANCE REQUIREMENTS

I. POLICY PROVISION ENDORSEMENTS

THE POLICIES ARE TO CONTAIN, OR BE ENDORSED TO CONTAIN, THE FOLLOWING PROVISIONS:

1. **Commercial General Liability and Automobile Liability Coverages**

- a. **“Flagler County, a Political Subdivision of the State of Florida,” is to be named as an Additional Insured in respect to:** Liability arising out of activities performed by or on behalf of the Contractor, his agents, representatives, and employees; products and completed operations of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitation(s) on the scope of protection afforded to the County, its officials, employees or volunteers.
- b. In addition to furnishing a Certificate of Insurance, the Contractor shall provide the endorsement that evidences Flagler County being listed as an Additional Insured. This can be done in one of two ways: (1) an endorsement can be issued that specifically lists “Flagler County, a Political Subdivision of the State of Florida,” as Additional Insured; or (2) an endorsement can be issued that states that all Certificate Holders are Additional Insured with respect to the policy.
- c. The Contractor’s insurance coverage shall be primary insurance with respect to the County, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees, or volunteers shall be excess of Contractor's insurance and shall be non-contributory.
- d. The insurance policies must be on an occurrence form.

2. **Workers' Compensation and Employers' Liability Coverages**

The insurer shall agree to waive all rights of subrogation against the County, its officials, employees and volunteers for losses arising from work performed by the Contractor for the County.

II. GENERAL INSURANCE PROVISIONS

1. Prior to the execution of Contract, or issuance of a Purchase Order, and then annually upon the anniversary date(s) of the insurance policy’s renewal date(s) for as long as this Contract remains in effect, Contractor shall furnish the County with a Certificate(s) of Insurance (using an industry accepted certificate form, signed by the Issuer, with applicable endorsements, and containing the solicitation or contract number, and title or description) evidencing the coverage set forth above and naming “Flagler County, a Political Subdivision of the State of Florida” as an Additional Insured on the applicable coverage(s) set forth above.
2. If the policy contains an aggregate limit, confirmation is needed in writing (letter, email,

etc.) that the aggregate limit has not been eroded to procurement representative when supplying Certificate of Insurance. In addition, when requested in writing from the County, Contractor will provide the County with a certified copy of all applicable policies. The address where such certificates and certified policies shall be sent or delivered is as follows:

Flagler County Government
Attn: Purchasing Division
1769 E. Moody, Blvd., Bldg. 2, 3rd floor
Bunnell, FL 32110

3. The project's solicitation number and title shall be listed on each certificate.
4. Contractor shall provide thirty (30) days written notice to the Risk Manager of any cancellation, non-renewal, termination, material change, or reduction in coverage of any insurance policies to procurement representative including solicitation number and title with all notices.
5. Contractor agrees that should at any time Contractor fail to meet or maintain the required insurance coverage(s) as set forth herein, the County may terminate this Contract.
6. The Contractor waives all subrogation rights against County, a Political Subdivision of the State of Florida, for all losses or damages which occur during the Contract and for any events occurring during the Contract period, whether the suit is brought during the Contract period or not.
7. The Contractor has sole responsibility for all insurance premiums and policy deductibles.
8. It is the Contractor's responsibility to ensure that his agents, representatives and subcontractors comply with the insurance requirements set forth herein. Contractor shall include his agents, representatives, and subcontractors working on the project or at the worksite as insured under its policies, or Contractor shall furnish separate certificates and endorsements for each agent, representative, and subcontractor working on the project or at the worksite. All coverages for agents, representatives, and subcontractors shall be subject to all of the requirements set forth to the procurement representative.
9. All required insurance policies must be written with a carrier having a minimum A.M. Best rating of A- FSC VII or better. In addition, the County has the right to review the Contractor's deductible or self-insured retention and to require that it be reduced or eliminated.

III. LIMITS OF COVERAGE

Contractor understands and agrees that the stipulated limits of coverage listed herein in this insurance section shall not be construed as a limitation of any potential liability to the County, or to others, and the County's failure to request evidence of this insurance coverage shall not be construed as a waiver of Contractor's obligation to provide and maintain the insurance coverage specified.

IV. WAIVER OF IMMUNITY

Contractor understands and agrees that the County does not waive its immunity, and nothing herein shall be interpreted as a waiver of the County's rights, including the limitation of waiver of immunity, as set forth in Florida Statutes 768.28, or any other statutes, and the County expressly reserves these rights to the full extent allowed by law.

BONDING REQUIREMENTS

Prior to commencing work, the Contractor shall obtain, for the benefit of and directed to County, a Performance Bond satisfying the requirements of this Contract as specified above, covering the faithful performance by the Contractor of its obligation under the Contract documents and the payment and obligations arising thereunder, including all payments to subcontractors, laborers, and materialmen. The surety selected by the Contractor to provide the Performance Bond shall be approved by County prior to issuance of such Bond, which approval shall not be unreasonably withheld or delayed provided that surety is rated A- or better by Best's Key Guide, latest edition.

Furnishing Performance Bonds shall be requisite to execution of this Agreement with County. Said Performance Bonds will remain in force for the duration of this Agreement with the premiums paid by the Contractor. Failure of the Contractor to execute such Agreement and to supply the required bonds shall be just cause for cancellation of the award. County may then contract with the next lowest, responsive and responsible contractor or re-advertise for this service. Failure of County at any time to require performance by the Contractor of any provisions set out in this Agreement will in no way affect the right of County, thereafter, to enforce those provisions.

[Remainder of page intentionally left blank.]

EXHIBIT E FLAGLER COUNTY FACILITY LOCATIONS

LOCATION	DUMPSTERS	NOTES
Government Services Building	One Trash, One Cardboard Dumpster	
Justice Center	No Dumpster	Energy Plant Dumpster is used for this location
Emergency Operations Center	One Trash, One Cardboard Dumpster	
Emergency Operations - Vehicle Storage Building	No Dumpster	EOC Dumpsters are used for this location
Fleet Maintenance Shop	One Trash, One Cardboard Dumpster	Tire dumpster not included
Facilities Maintenance Shop	One Trash Dumpster	
Energy Plant	One Trash, One Cardboard Dumpster	
Flagler County District 3 Sheriff's Office	One Trash Dumpster	
Flagler County Library - Palm Coast	One Trash Dumpster	
Flagler County Station 62	One Trash Dumpster	
Wadsworth Park	Two Trash Dumpsters	
Russell Landing	No Dumpster	Dumpster located at Pellicer Community Ctr
Carver Gym	One Trash Dumpster	
FCRA Fairgrounds	Two Trash Dumpsters	
Haw Creek Community Center	One Trash Dumpster	
Betty Steflik Preserve	One Trash Dumpster	
Agriculture Extension Office	One Trash Dumpster	
Princess Place Preserve	Two Trash Dumpsters	
Rima Ridge Fire Station 81	One Trash Dumpster	
Korona Fire Station 31	One Trash Dumpster	
Espanola Fire Station 51	One Trash Dumpster	
Hammock Fire Station 41	One Trash Dumpster	
St John's Park Fire Station 71	One Trash Dumpster	
Airport Fire Station 92	One Trash Dumpster	
Airport FBO Office	One Trash, One Cardboard Dumpster	
Senior Services/David Siegel Center	One Trash Dumpster	



RFP 22-048P Residential Solid Waste Management Services

SCORING/RANKING SUMMARY

Proposer	Experience Max Score 20	Capacity Max Score 25	Approach Max Score 30	Fees Max Score 15	Interviews Max Score 10	Total
Waste Pro	17.2	22.1	27.7	15.0	9.7	91.7
FCC	16.2	20.3	25.3	13.4	8.7	83.9