

RESOLUTION NO. 23-75

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING A MULTIYEAR AGREEMENT WITH WASTE PRO RELATING TO SOLID WASTE AND ROLL OFF COLLECTION SERVICES FOR CITY FACILITIES, IN THE ESTIMATED ANNUAL AMOUNT OF \$37,407.36.

BE IT RESOLVED that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and Waste Pro, relating to solid waste and roll off collection services for city facilities, in the estimated annual amount of Thirty-Seven Thousand, Four Hundred Seven Dollars and Thirty-Six Cents (\$37,407.36), in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

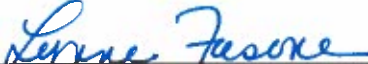
PASSED in regular session this 12th day of January, 2023.

CITY OF PANAMA CITY BEACH

By: _____


Mark Sheldon, Mayor

ATTEST:



Lynne Fasone, City Clerk

AGREEMENT

THIS SOLID WASTE AND ROLL OFF COLLECTION SERVICES AGREEMENT is made and entered into this 13 day of January, 2023, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation (City) and WastePro of Florida (Contractor).

** Effective Date Feb. 1, 2023.*

PREMISES

1. SCOPE OF SERVICES

A. Contractor will furnish all equipment, materials and labor required to provide solid waste and roll off collection services as detailed in the bid # **PCB23-16 ITB SOLID WASTE AND ROLL OFF COLLECTION SERVICES FOR CITY FACILITIES**.

B. Maintenance and Appearance of Equipment

i. Contractor shall equip all collection service vehicles with spill kits. Spill kits shall include a broom, dust pan, and other necessary items to clean up spillage and litter caused by collection services. In addition, Contractor shall equip all collection service vehicles with oral telecommunication equipment providing instant, two-way communication between the vehicle and Route Supervisor.

ii. Contractor shall paint all collection service vehicles uniformly with the name of the Contractor, customer service office telephone number and the unique identification number of the vehicle in letters not less than six (6) inches high on each side and rear of the vehicle. All collection services vehicles shall be cleaned and disinfected regularly, but not less frequently than monthly. The City Manager, or his/her designee, at their sole discretion may require a vehicle to be removed from service under this Agreement while the appearance or maintenance of the vehicle does not meet the requirements of this Agreement, the vehicle repeatedly causes spillage, litter or leaks, or the City deems the appearance, condition or maintenance of the vehicle to be unacceptable pursuant to guidelines, provided the Contractor is given reasonable notice.

iii. Contractor shall provide containers as specified in the scope of work. Front loader containers are to have working lids, plugs and be free of leaks. Roll Off containers shall have working back doors with a safety chain and be structurally sound. The City Manager, or his/her designee, at their sole discretion may require a container to be removed from service under this Agreement while the appearance or maintenance of the container does not meet the requirements of this Agreement, or the City deems the appearance, condition, or maintenance of the container to be unacceptable pursuant to guidelines, provided the Contractor is given reasonable notice.

C. If the Contractor believes that any particular work/service is not within the scope of work/service of the contract, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the City's Representative in writing of this belief. If the City's Representative believes that the particular work/service is within the scope of the contract as written, the Contractor will

be ordered to and shall continue with the work/service as changed and at the cost stated for the work/service within the scope. The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of this agreement.

2. PAYMENT

The Contractor will invoice for payment to the City monthly. Each service location must be billed separately. The invoice(s) shall be delivered to accounts payable at City Hall, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413 no later than three days after the closure date of each calendar month.

3. TERM

Unless terminated sooner pursuant to the provision of the Termination clauses and subject to the availability of funds appropriated for this purpose, this Agreement shall be for three (3) years with two (2) one-year renewal options, upon mutual agreement by both parties.

4. PRICE ADJUSTMENTS

Price changes may be allowed during the additional optional extensions, in accordance with the US Bureau of Labor Statistics, Consumer Price Index (CPI), garbage and trash collection consumer price index most current release, <http://www.bls.gov/CPI>. Adjustments of cost per cubic yard based on CPI at Vendor's request are not automatic and are subject to verification and approval by the City.

Price reductions may be offered at any time during Contract. City may request a price reduction, which Contractor shall permit, when such request is supported by Producer Price Index.

5. INSURANCE

Vendor shall at its expense maintain in force during the Term the insurance on policies and insurers acceptable to the City as required by the City's Insurance Requirements attached hereto as Exhibit "A."

Within thirty days of the date of the Award, and thereafter upon the written request of the City, Vendor shall furnish to the City such certificates of coverage and certified copies of policies pursuant to the City's Insurance Requirements. In order to satisfy this provision, the documentation required by this part must be sent to the following address: Attn: Lori Philput, Risk Manager, 17007 Panama City Beach Parkway, Panama City Beach, FL 32413.

5. INDEMNIFICATION:

Regardless of the coverage provided by any insurance, the successful Vendor shall indemnify, save harmless and defend the City, its agents, servants, or employees from and against any and all claims, liability, losses and/or causes of action which may arise from any negligent act or omission of the successful Vendor, its sub-Vendors, agents, servants or employees during the course of performing services or caused by the goods provided pursuant to these Bid documents and/or resultant contract.

If any third-party claim is made against the City that, if sustained, would give rise to indemnification liability of the Vendor under this Agreement, the City shall promptly cause notice of the claim to be delivered to the successful Vendor and shall afford the Vendor and its counsel, at the Vendor's sole expense, the opportunity to join in defending or compromising the claim. The covenants contained in this paragraph shall survive the termination of this Agreement.

6. ATTORNEY'S FEES

Should either party institute any legal action or proceeding to enforce this Agreement, or for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such legal action or proceeding.

7. TIME

Time is of the essence in this Agreement.

8. REMEDIES

In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the City, after due written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have. Failure to cure a breach of a material term hereunder within twenty-four (24) hours of Contractor's receipt of written notice thereof shall entitle the City to terminate this Agreement. All rights and remedies conferred upon the parties in this Agreement are governed by the laws within the State of Florida.

9. CHOICE OF LAW & VENUE

This Agreement shall be governed by the laws of the State of Florida. Any legal proceeding regarding this Agreement shall be brought in the 14th Judicial Circuit in Bay County, Florida.

10. ASSIGNMENT

This Agreement may be assigned with the consent of the City Council.

11. SEVERABILITY

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

12. MODIFICATIONS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the City and Contractor.

13. WAIVER

Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of the provision or modification of this Agreement. A waiver by the City of any

breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

14. TERMINATION AND SUSPENSION

City Termination for Cause. The Agreement may be terminated by the City for cause in the event of any breach hereof, including, but not limited to, Contractor's: (1) failing to carry forward and deliver the product as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the City regarding the Work, (9) arrest or conviction of felony or fraud, or (10) any other material breach of this Agreement. In such event, the City shall provide Contractor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the City's sole judgment and discretion, the City may afford Contractor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the City may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient.

City Termination for Convenience. Notwithstanding any other provision hereof, the City may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon thirty (30) days written notice to Contractor. In such event, Contractor shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become City property. Upon receipt of notice, Contractor shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Contractor shall also make every reasonable effort to cancel, upon terms satisfactory to the City, all orders or subcontracts related to the terminated Work. Contractor may not claim any compensation not specifically provided for herein, including, but not limited to loss of anticipated profits, idle equipment, labor, and facilities, any additional claims of subcontractors and vendors.

15. NOTICES

Any notice required by this Agreement shall be directed to the parties as follows:

A. As to City:

City Representative: Drew Whitman

Title/Position: City Manager

17007 Panama City Beach Pkwy., PCB, FL 32413

Phone: 850-233-5100

B. As to Contractor:

Contract Representative: ^{Loyd} ~~Loyd~~ Childree, and David Aktin S
 Title/Position: Municipal / Regional Marketer & Division Manager
 Email address: loyd1childree@wasteprusa.com and daktins@wasteprusa.com
 Mailing address: 12310 Panama City Beach Parkway
Panama City Beach, FL 32407
 Phone/Cell: 850-872-1800

16. AGREEMENT

This Agreement, and any exhibits or appendixes attached hereto and incorporated herein, constitutes the entire agreement between parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions of the parties, whether oral or written, and there are no representations, warranties, covenants, or other agreements among them.

The term "Agreement" means and includes the following documents, all of which are incorporated into this Agreement by this reference:

- ADVERTISEMENT FOR BIDS
- INFORMATION FOR VENDORS
- SCOPE OF WORK /SPECIFICATIONS
- BID PROPOSAL FORM
- STATEMENT UNDER SECTION 287.087, FLORIDA STATUTES, ON PREFERENCE TO BUSINESSES WITH DRUG-FREE WORKPLACE PROGRAMS
- PUBLIC ENTITY CRIMES STATEMENT
- NON-COLLUSION AFFIDAVIT
- E-VERIFY
- TERMS AND CONDITIONS
- NOTICE OF AWARD
- AGREEMENT
- EXHIBIT A
- [ANY ADDITIONAL EXHIBITS OR APPENDICES)

ADDENDA (S)
 No. 1, dated 11/15, 2022
 No. 2, dated 11/21, 2022
 No. , dated , 20

No. _____, dated _____, 20__

IN WITNESS WHEREOF, the Contractor has executed this Agreement as of the day and year first above written.

Signed in the presence of: Contractor

Witness 1 _____

(Print Name): LEE J. KEMMER

By: 

Witness 2 Came Jagers
(Print Name): Came Jagers

ATTEST:

**THE CITY OF PANAMA CITY
BEACH, FLORIDA,**

a municipal corporation


City Clerk

By: 
Drew Whitman , City Manager

NOTICE OF AWARD

*emailed
1/18/23*

TO: Waste Pro of Florida
12310 Panama City Beach Parkway
Panama City Beach, FL 32407

PRODUCT DESCRIPTION:

PCB23-16 ITB Solid Waste and Roll Off Collection Services

The City of Panama City Beach ("City") has considered the BID submitted by you for the above-described Product in response to its Advertisement for Bids dated Nov. 22, 2022 and associated Information for Vendors.

You are hereby notified that your pricing schedule has been accepted by the City. Provided, however, nothing in this Notice or your delivery to the City of the Agreement executed by you shall in any manner or way be deemed to create any contract between you and the City. No such contract shall be created unless and until the City signs the Agreement.

You are required by the Information for Vendors to execute the Agreement.

If you fail to execute said Agreement within ten (10) calendar days from the date of this Notice, City will be entitled to consider all your rights arising out of City's acceptance of your BID as abandoned.

You must return an acknowledged copy of this Notice of Award to the City, with the executed Agreement and required Certificates of Insurance and Bonds, within the above noted ten (10) calendar day period.

Dated this 13th day of January, 2023.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

CITY OF PANAMA CITY BEACH

Owner

By  _____

Name: Drew Whitman

Title: City Manager

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged

By  _____

This the 18th day of July, 2023

Name Leo J Kierstein

Title VP Marketing

[END OF NOTICE OF AWARD]