



Purchasing Department

County Of Hidalgo

MEMORANDUM

“SOLE SOURCE DECLARATION”

TO: Hidalgo County Commissioners' Court

FROM: Martha L. Salazar, CPPB
Hidalgo County Purchasing Agent *mls*

DATE: MAY 29, 2013

RE: “Sole Source Declaration”- Solid Waste Collection and Disposal Service –
City of Progreso

The City of Progreso in 2003, awarded a contract for the provision of waste collection services to LEALCO, INC., d/b/a ABC Waste Collection now doing business as “Waste Connections of Texas Rio Grande Valley” and continues to be the contractor for the City of Progreso. The work under this agreement consists of commercial, industrial, construction, and residential solid waste collection and disposal, including all the supervision, material, equipment, labor and all other items necessary to complete said work.

Hidalgo County Facilities Management Department maintains the building for Community Resource Center in Progreso located at 1015 & 5 Mile South Business 83, within the City of Progreso, TX

Hidalgo County must comply with City's contract award with Waste Connections of Texas Rio Grande Valley.

Therefore, for all the facts contained herein, Waste Connections of Texas Rio Grande Valley, is the Sole Source for the provision of waste collection services and the Hidalgo County Department of Facilities Managements requires the purchase of said services as long as Waste Connections of Texas is the contracted provider for the City of Progreso.



WASTE CONNECTIONS OF TEXAS

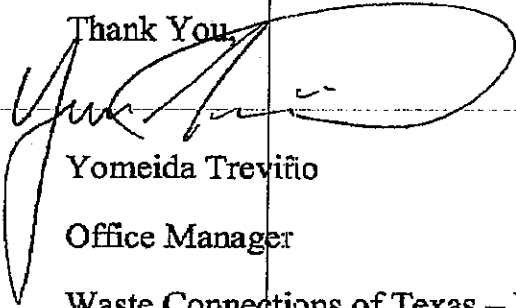
Main 956.316.0333 ♦ Fax 956.316.0113 ♦ 1222 North Clossner ♦ Edinburg, Texas 78539

4/25/2013

To Whom it May Concern,

This letter is to confirm that Waste Connections of Texas Rio Grande Valley currently has a contract with the City of Progreso. The contract states that all residents and businesses within the city limits of Progreso must use services provided by Waste Connections of Texas Rio Grande Valley. Please feel free to contact us at (956) 316-0333 for any questions.

Thank You,

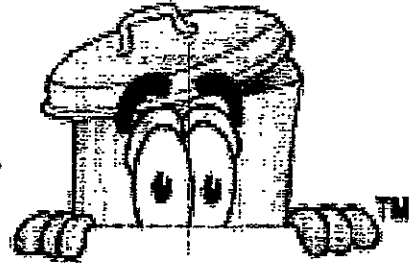

Yomeida Treviño

Office Manager

Waste Connections of Texas – RGV

WasteConnections of Texas

"Connect with the Future"



To: Connie Salazar
Company: HC
Phone #: _____
Fax #: 318-2577
Re: Contract

From: Yoneida Trevino
Location: Edinburg Tx
Phone #: 316 0333
Fax #: 316 0113
of Pages: 2 (including cover sheet)

Description:

Date Sent: 4-25-13

If there are any problems with the transmission of the fax please call (956) 316-0333

1222 N. CLOSENER BLVD., EDINBURG, TX 78540 PH (956) 316 - 0333 Fax (956) 316 - 0113

AMENDMENT NO. 1

to the

EXCLUSIVE FRANCHISE CONTRACT

between the

THE CITY OF PROGRESO, TEXAS

And

LEALCO, INC. d/b/a ABC WASTE COLLECTION

THE STATE OF TEXAS }
COUNTY OF HIDALGO }

THIS Amendatory Agreement is made and entered into this 28th day of January, 2003 between the CITY OF PROGRESO in Hidalgo County, Texas (the "CITY") and LEALCO, INC., a Texas Corporation, doing business as ABC WASTE COLLECTION, (the "CONTRACTOR").

WITNESSETH:

WHEREAS, on or about December 3, 1997, the Parties entered into an Exclusive Franchise Contract under which the CONTRACTOR would provide municipal solid waste collection, removal and disposal services to residents of the CITY ("Contract"); and

WHEREAS, the CITY has now entered into a Household Waste Collection Services Agreement (the "Collection Services Contract") with Military Highway Water Supply Corporation ("MHWSC") under which MHWSC will bill and collect solid waste collection fees on behalf of the CITY from its residential water customers which receive solid waste collection services from the CITY, which makes it necessary to amend the Contract as it relates to billing and collection; and

WHEREAS, it is in the best interest of both parties to amend the Contract as it relates to billing and collection.

NOW, THEREFORE, in consideration of the mutual promises herein, the Parties agree that the Contract shall be amended as follows:

1.0 Section 12.08 shall be amended to read as follows:

"Point of Contact: All dealings, contacts, etc., between the CONTRACTOR and the CITY shall be by the CONTRACTOR to the City Manager, and by the CITY to JUAN GONZALEZ, Manager, ABC Waste Collection, P. O. Box 473, Mission, TX 78573, Telephone: (956) 581-6226, Facsimile: (956) 581-6868."

2.0 Section 13.01 shall be amended to read as follows:

"13.01

a. Residential Billing and Collection. The CITY has entered into a Collection Services Contract with Military Highway Water Supply Corporation ("MHWSC") to bill and collect solid waste collection fees on behalf of the CITY from its residential water customers which receive solid waste collection services from the CITY. Therefore, for Residential Units the CONTRACTOR will not perform billing and collection services. The CITY will provide the CONTRACTOR with a list of Residential Units, Shops and Professional Units (hereinafter referred to collectively as "Residential Units") to be served by CONTRACTOR, and the CITY will advise CONTRACTOR MONTHLY of any additions or deletions to this list. Following the end of the month in which service is provided to Residential Units pursuant to Section 11.00, and within ten (10) days after payment is received by the CITY from MHWSC, the CITY will pay the CONTRACTOR for each Residential Unit on the list (and served) for that month at the rates shown in Schedule A attached hereto. The rates shown in Schedule A are subject to adjustment in accordance with Section 13.03 or approval by the CITY.

b. Commercial and Industrial Unit Billing and Collection. The CONTRACTOR shall submit statements to and collect from all Commercial and Industrial Units for services provided by the CONTRACTOR pursuant to Section 11.00 at the rate shown in Schedule A attached hereto. Appropriate sales tax shall be added to the listed rates. The rate shown in Schedule A is subject to adjustment in accordance with Section 13.03 or approval by the CITY. These customers will be billed quarterly, in advance, for the services provided. CONTRACTOR will have the responsibility of collecting any and all applicable sales tax or other similar tax which may be imposed and be due for the services rendered to Commercial and Industrial Units under this Contract and for reporting and payment thereof to the State of Texas and any other governmental entity which may impose a sales tax or similar tax upon the services to be rendered.

c. Discontinuance of service by CONTRACTOR:

(1) CONTRACTOR shall discontinue garbage collection service at any Commercial and Industrial Unit that falls more than 30 days past due. CONTRACTOR shall notify the CITY of service termination and past due status.

CONTRACTOR shall have the right to pursue said delinquent accounts in an appropriate legal manner.

(2) Upon notice from the CITY to do so, CONTRACTOR shall discontinue garbage collection service to any Residential Unit and the solid waste container at that Residential Unit may be removed by CONTRACTOR. Such service shall not be resumed until the CITY notifies the CONTRACTOR to resume such service."

3.0 The text and heading of Section 13.02, Discontinuance of service by Contractor shall be deleted, and the word "[RESERVED]" shall be substituted.

4.0 Section 13.04, Franchise fee, shall be amended by deleting Subsection "a." and the remaining Subsections are re-designated as "a." and "b."

5.0 Schedule A to the Contract shall be amended by changing the rate per month for 96 gallon containers to read "\$9.00" and by changing the rate per month for small 1-1/2 cubic yard (300 gallon) containers to read "\$ 30.00."

6.0 Save and except as amended hereby, the sentences, phrases, articles, sections, paragraphs and subparagraphs of the original Contract shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Amendment No. 1 effective on the date first above written.

CITY OF PROGRESO, TEXAS

By: _____

Mayor Omar Vela

ATTEST:

Sarah Castle

LEALCO, INC. d/b/a ABC WASTE COLLECTION

By: _____

Merge Wayne - DVP

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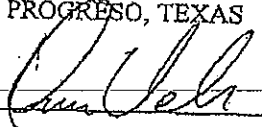
5.0 Schedule A to the Contract shall be amended by changing the rate per month for 96 gallon containers to read "\$9.00" and by changing the rate per month for small 1-1/2 cubic yard (300 gallon) containers to read "\$ 30.00."

6.0 Save and except as amended hereby, the sentences, phrases, articles, sections, paragraphs and subparagraphs of the original Contract shall remain in full force and effect.

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CITY OF PROGRESO, TEXAS

By: _____



Mayor Omar Vela

ATTEST:



LEALCO, INC. d/b/a ABC WASTE COLLECTION

By: _____

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receptacle by vectors, having a mouth with a diameter greater than or equal to that of the base, having two wheels, which is designed to be lifted and emptied mechanically for use at residential units. The weight of a cart and its contents shall not exceed 110 pounds.

- 6.05 Commercial Container: Metal receptacle designed to be lifted and emptied mechanically for use at Commercial and Industrial Units.
- 6.06 Commercial and Industrial Unit: All premises, locations, or entities, public or private, requiring refuse collection within the corporate limits of the City not a Residential Unit.
- 6.07 Commercial and Industrial Refuse: All Bulky Waste, Construction Debris, Garbage, Rubbish and Stable Matter generated by a producer at a commercial and industrial unit.
- 6.08 Construction Debris: Waste building materials resulting from construction, remodeling, repair or demolition operations.
- 6.09 Contract Documents: The general specifications, the contractor's proposal, the contract, and any other addenda or changes to the foregoing documents agreed to by the City and the Contractor.
- 6.10 Dead Animals: Animals or portions thereof equal to or greater than 10 lbs in weight that have expired from any cause, except those slaughtered or killed for human use.
- 6.11 Disposal Site: A refuse depository including but not limited to sanitary landfills, transfer stations, incinerators and waste processing/separation centers licensed, permitted or approved to receive for processing or final disposal of refuse and dead animals by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.
- 6.12 Garbage: Any and all dead animals of less than 10 lbs. in weight except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste, animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals, Hazardous Waste, Rubbish, or Stable Matter.

Except Automobile

\$500,000.00 aggregate

Automobile Bodily Injury
Liability

\$500,000.00 each person
\$1,000,000.00 each occurrence

Automobile Property Damage
Liability

\$500,000.00 each occurrence

9.00 **LICENSES:** The Contractor shall obtain all licenses and permits (other than the license and permit granted by the Contract) necessary to perform the services required of Contractor by this Contract.

10.00 **SCOPE OF WORK:** The work under this Contract shall consist of all the supervision, materials, equipment, labor, and other items necessary to complete said work in accordance with this Contract. The work under this Contract does not include the collection and disposal of any increased volume resulting from a flood, hurricane or similar or different act of God over which the Contractor has no control. In the event of such a flood, hurricane or other act of God, the Contractor and the individual customer will negotiate the payment to be made to the Contractor.

10.01 **Storms and Other Disasters:** In case of a storm, flood, hurricane or other disaster or other Acts of God, the City shall grant the Contractor reasonable variance from regular schedules and routes.

In case of a storm or other disaster or other Acts of God where it is necessary for the Contractor to perform services beyond the scope of this Contract, the Contractor and the individual customer shall negotiate the amounts to be paid to the Contractor.

11.00 **TYPE OR COLLECTION:**

11.01 **Service Provided:**

a. **Residential Service:**

(1) Contractor shall provide, at Contractor's sole expense one (1) cart to each billed residential unit. In the event that the cart so provided is lost, misplaced, stolen, or for any other reason cannot be used as intended by this Contract, then a replacement cart will be provided by Contractor, the cost of which shall be billed to the respective residential unit by the Contractor under the billing process hereinafter described. In the event a cart is stolen, no

replacement, as described herein, will be made until the individual customer furnishes a copy of the police report to Contractor evidencing that the theft has been reported to the appropriate police department. The cost of a subsequent cart shall be equal to Contractor's cost. No charge shall be made by Contractor for the replacement of a cart if the need for replacement is due to the act or acts of the Contractor or its employees.

(2) Contractor shall provide collection service for the collection of Residential Garbage (except bulky waste) to each Residential Unit one (1) time per week on a day or days designated by the Contractor. Carts shall be placed at curbside by 7:00 a.m. on the designated collection day. The collection process employed by Contractor shall be the mechanical lifting and emptying of the cart into Contractor's waste disposal unit. No other process shall be required and no residential garbage will be collected if not contained within the cart for mechanized collection.

(3) If a residential unit requests Contractor to provide a small 1- 1/2 cubic yard container in lieu of a Cart, Contractor shall provide to the requesting residential unit one small 1-1/2 cubic yard container, under the same terms and conditions as if a Cart were furnished, except for the rate charged per month and that the container shall be placed in an accessible, outside location, on a hard surface, according to individual agreement. Contractor may decline to collect refuse in containers not so placed.

(4) A residential unit requiring a larger container may request Contractor to furnish a larger container, the size of which is to be determined by the needs of the respective unit, and, in this event, the account will be treated, considered and charged as commercial unit collection service.

b. Small Business or Professional Shop Service: Service to small businesses or professional shops which require collection service reasonably similar to Residential Service [not to exceed limitations as outlined in Schedule A and as outlined in Paragraph 11.01 a. (2) or 11.01 a. (3)], shall be serviced by the Contractor once weekly. Businesses exceeding such limitations shall be provided container service as for Commercial and Industrial accounts as provided in Paragraph 11.01-c. below.

c. Commercial and Industrial Service: Service to Commercial and Industrial Units whose needs exceed Small Business or Professional Shop Service

interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Carts shall be placed as close as practicable to an access point for the collection vehicle. Contractor may decline to collect any carts not so placed at curbside or any residential refuse not in said cart.

b. Contractor shall provide containers for commercial and industrial units whenever customers request their use. Each container shall be placed in an accessible, outside location on a hard surface according to individual agreement. Contractor may decline to collect refuse in containers not so placed.

11.03 City Annual Clean-up: Unless prohibited by State or Federal Law and/or regulations, Contractor will furnish to the City, at the City's annual clean-up site, a rolloff container, at no charge, for the collection and disposal of packing crates and bulky waste.

12.00 COLLECTION OPERATION:

12.01 Hours of Operation:

a. Collection for Residential Units shall not start before 7:00 a.m. or continue after 7:00 p.m. of the same day. Exception to collection hours shall be effected only on the mutual agreement of the City and Contractor, or when Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

b. Collection for Commercial and Industrial Units shall take place according to individual agreement.

12.02 Routes of Collection:

a. Residential Unit collection routes shall be established by the Contractor. Contractor shall submit to the City the proposed collection routes and schedules within thirty (30) days from the effective date of this Contract. In the event the Contractor desires to change any pickup routes or schedules, Contractor shall give 15 days written notice to the City and to the residents effected by such changes.

b. Commercial and Industrial Unit routes, which includes all container collection routes, shall be established by the Contractor at its sole discretion.

12.07 Disposal of Garbage and Refuse: All garbage and refuse collected for disposal by the Contractor shall be hauled to the landfill or other disposal site and all of said materials shall be disposed of in compliance with the laws of the Federal Government and State of Texas and/or the rules, regulations and standards established or to be established by the Federal Government and the Texas Natural Resources Conservation Commission to include the Texas Air Control Board.

12.08 Point of Contact: All dealings, contacts, etc., between the Contractor and the City shall be directed by the Contractor to the City Manager, and by the City to CARLOS G. LEAL, JR., President.

13.00 BASIS AND METHOD OF PAYMENT:

13.01

a. Collection: The Contractor shall submit statements to and collect from all Residential Units and from all Commercial and Industrial Units for services provided by the Contractor pursuant to Section 11.00 at the rate shown in Schedule A attached hereto. Appropriate sales tax shall be added to the listed rates. The rate shown in Schedule A is subject to adjustment in accordance with Section 13.03 or approval by City.

All customers will be billed quarterly, in advance, for the services provided.

b. Sales Tax: Contractor shall have the sole responsibility to collect from all Residential Units, all Commercial and Industrial Units and all customers, any and all applicable sales tax or other similar tax which may be imposed and be due for the services rendered under this Contract and for the reporting and payment thereof to the State of Texas and any other governmental entity which may impose a sales tax or similar tax upon the services to be rendered under this Contract.

13.02 Discontinuance of service by Contractor: Contractor shall discontinue garbage collection service at any unit that falls more than 30 days past due. Contractor shall notify City of service termination and past due status. Contractor shall have the right to pursue said delinquent accounts in an appropriate legal manner.

13.03 Modification to Rates:

a. The fees which may be charged by the Contractor for the second and subsequent years of the term hereof shall be adjusted upward to reflect changes in the cost of operations, as reflected by fluctuations in the

Consumer Price Index for Urban Wage Earners and Clerical Workers (All Items) and the Consumer Price Index for Urban Wage Earners and Clerical Workers, Expenditures Category "Gasoline," both as published by the U.S. Department of Labor, Bureau of Labor Statistics. As of the last month of the first year of the Contract and every twelve months thereafter (the "Rate Modification Date"), the fees shall be increased for the ensuing twelve-month period in a percentage amount equal to 100 percent of the net percentage change of the All Items Index plus 10 percent of the net percentage of the Gasoline Index. All percentage changes are to be computed as the difference between the index value for the first month prior to the commencement of the Contract and the index value for the Rate Modification Date divided by the index value for the first full month prior to the commencement of the Contract.

- b. If the Contractor desires an increase under the provisions of Paragraph 13.03, Contractor shall, as soon as possible after a Rate Modification Date, send to City a comparative statement setting out for both the All Items Index and the Gasoline Index (i) the index value on the first full month prior to the commencement of the Contract; (ii) the index value on the Rate Modification Date preceding the date of the statement; (iii) the net percentage change; (iv) the composite percentage change equal to the net percentage change in the All Items Index plus the net percentage change in the Gasoline Index; and (v) the increase in the fees which may be charged by the Contractor. On the next billing date after the receipt of the comparative statement, the City shall pay to the Contractor a lump sum equal to any increase applicable to that portion of the current period which has elapsed and, thereafter, the fees charged by the Contractor shall be modified to reflect such change until a different comparative statement is received by the City.
- c. In addition to the foregoing, the fees which may be charged by the Contractor shall be increased to reflect increases in Contractor's disposal rate and to offset uncontrollable increases in the cost of doing business. The rate increase will be reviewed and approved by the Progreso City Council and such fee adjustments shall not be unreasonably denied by the City.
- d. In addition to the above, the fees which may be charged by Contractor shall, at contractor's option, be increased at any time upon thirty (30) days notice to City to reflect increases in Contractor's cost of operations arising from changes (including changes in construction or manner of enforcement) in laws, regulations or applicable permits, changes in the locations of disposal sites, and increase in the number of Residential Units due to City growth or annexation or similar occurrences, and for other

may be. Upon request, the Contractor shall furnish to the City reports of the results of all complaints and investigations received and actions taken by Contractor.

22.00 **FORCE MAJEURE:** Neither the Contractor nor the City shall be liable for the failure to wholly perform its duties if such failure is caused by a catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act of God or other similar or different contingency beyond the reasonable control of the Contractor.

23.00 **NONDISCRIMINATION:** Contractor shall not discriminate against any person because of race, sex, age, creed, religion or national origin.

24.00 **REPEALER:** All Ordinances, parts of Ordinances and/or Resolutions in conflict herewith are expressly repealed.

25.00 **AUTHORIZATION:** The Mayor of the City is authorized to execute this Contract on behalf of the City of Progreso, Texas.

26.00 **VENUE:** Any suit arising under this Contract must be brought in Hidalgo County, Texas.

IN WITNESS WHEREOF, we, the contracting parties, by our duly authorized agents hereby affix our signatures and seals at Progreso, Texas, as of the date hereinabove written. This Contract is executed in multiple originals.

CITY OF PROGRESO a Municipal Corporation
of HIDALGO COUNTY, TEXAS

BY: Arturo Valdez
MAYOR ARTURO VALDEZ

ATTEST:

(seal)

Elizabeth Juarez
City Secretary, ELIZABETH JUAREZ

