

Grants & Contracts - Transmittal Memo

DATE: September 6, 2017

FROM: Purchasing Division, Contracts

TO: Jamie Bailey
Sally Palmi

CONTRACT #: 9675

VENDOR: WCA of Florida, LLC

DESCRIPTION: #9675 Third Amendment with WCA of Florida Solid Waste, Recyclable Materials and Yard Trash Collection to change GMW. The Amendment updates the number of households serviced and the amount owed to WCA of Florida, LLC based on the certified unit count. This Amendment also includes an increase in the contract to cover the Alachua County Government Minimum Wage requirements.

APPROVED BY: Board of County Commissioners

APPROVAL DATE: 8/22/2017

RECEIVED ON: 9/6/2017

TERM START: 4/22/2014

TERM END: 9/30/2021

AMOUNT: NTE \$3,495,509.40

ACCOUNT:

ENCUMBRANCE #:

RFP/BID #:

ACTIONS REQUIRED: Please forward a copy to the vendor & retain a copy for your files.

COPY TO: Finance and Accounting
Risk Division
Purchasing Division
File

**THIRD AMENDMENT TO SOLID WASTE, RECYCLABLE MATERIALS
AND YARD TRASH COLLECTION RENEWAL AGREEMENT BETWEEN
ALACHUA COUNTY AND WCA OF FLORIDA, LLC**

THIS THIRD AMENDMENT TO COLLECTION AGREEMENT, made and entered into this 22nd day of August, 2017, by and between Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the "County", and WCA of Florida, LLC, hereinafter referred to as the "Contractor" (hereinafter collectively referred to as the "Parties").

WHEREAS, the Parties made and entered into the Solid Waste, Recyclable Materials and Yard Trash Collection Renewal Agreement ("Collection Agreement") on April 22, 2014, for the period April 22, 2014 through September 30, 2021; and

WHEREAS, the Parties made and entered into the First and Second Amendments to the Collection Agreement on December 9, 2014, and November 10, 2015, respectively; and

WHEREAS, the Parties wish to amend the Collection Agreement, in accordance with section 1.11.1.3 of Attachment B, General and Technical Specifications, of the Collection Agreement, to reflect the amount due the Contractor for the County's Fiscal Year 2016-2017 based on the total number of Universal Collection Area residential units as determined by the 2016 Certification of Non-ad Valorem Assessment Roll; and

WHEREAS, the Parties also wish to amend Section V of the Collection Agreement to add the requirements of the Alachua County Government Minimum Wage Ordinance, and to provide for an adjustment to the compensation due to Contractor for the costs associated with same during fiscal year 2016-17.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference and shall be deemed an integral part of this Third Amendment, and in

consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Collection Agreement as follows:

1. The recitals above are true and correct and incorporated herein.
2. The total number of Universal Collection Area residential units, by cart size, for Fiscal Year 2016-2017 certified to the Alachua County Tax Collector for the 2016 non- ad valorem assessment roll is in the table below.

<u>Cart Size</u>	<u>Number of Units</u>
20 gallon	567
35 gallon	2,898
64 gallon	15,867
96 gallon	3,775
TOTAL UNITS	23,107

The maximum indebtedness of the County to the Contractor for Fiscal Year 2016-2017 under this Agreement, as based on the total number of Universal Collection Area residential units determined by the 2016 Non-Ad Valorem Assessment Roll (total unit count of 23,107), shall not exceed Three Million, Four Hundred Ninety-Five Thousand, Five Hundred Nine dollars and Forty cents (\$3,495,509.40) plus additional service charges and the compensation adjustment related to Contractor's increased cost associate with the County Minimum Wage Ordinance, as more particularly described in paragraph 4, below. The Retroactive Compensation due to Contractor for the period of October 1, 2016 through August 31, 2017 as a result of adjusting the total number of Universal

Collection Area residential units is \$35,752.64. Contractor shall add, as a line item to its September 2017 monthly invoice to County, the following line item: **Lump Sum Compensation for Adjustment to Universal Collection Area Residential Units for the Period of October 1, 2016 through August 31, 2017: \$35,752.64.** The amount charged to the County in each subsequent monthly invoice shall be \$291,292.45, until the Parties amend the Collection Agreement again in accordance with the provisions of Section 1.11.1.3 of Attachment B to the Collection Agreement.

3. Section V, **ADDITIONAL CONTRACTUAL OBLIGATIONS OF CONTRACTOR**, is amended with the addition of sub-section F, reading as follows:

F. **Alachua County Minimum Wage:** Services rendered through this Agreement are considered "covered services" under Chapter 22, Article III, of the Alachua County Code of Ordinances ("Wage Ordinance"), which establishes a government minimum wage for certain contractors and subcontractors providing selected services to Alachua County government. "Covered Employees", as defined in Sec. 22.45 of the Wage Ordinance, are those employees directly involved in providing covered services pursuant to this Agreement.

The Contractor shall comply with the Wage Ordinance and shall certify to the County, using the form included as **Attachment D**, that it pays each of its covered employees the Alachua County Government Minimum Wage ("Minimum Wage"), and requires the same of its subcontractors for the term of the Agreement. Contractor shall be entitled to an adjustment in compensation in an amount equal to the cumulative incremental amount of raising the hourly wage of each "covered employee" from his or her current hourly wage to the Minimum Wage. By June 1st of each subsequent year of the term of the Agreement, the County shall provide notice to the Contractor of its proposed Minimum Wage for the subsequent fiscal year to facilitate the Contractor in evaluating and planning

whether to request an adjustment of Contractor's compensation for the upcoming fiscal year. By no later than October 15th of each year, Contractor shall provide the County written notice of whether it intends to request a compensation adjustment under this provision; however, the amount requested by Contractor shall be based on the Minimum Wage adopted by the Alachua County Board of County Commissioners for the applicable fiscal year, which shall be adopted by the Alachua County Board of County Commissioners on or before October 1st of each year. Any such adjustments shall be formalized by an amendment to this Agreement, approval of which shall not be withheld unreasonably by the County. The adjustment shall be approved as part of the amendment process required by Section 1.11.1.3 of Attachment B to the Agreement. Except for FY16-17, the adjustment to compensate Contractor for an increase to the Minimum Wage shall apply retroactively to October 1 of each year of the Contract Term ("Retroactive Period"), regardless of the date on which the County approves the amendment. Contractor shall, in its first invoice to the County after the approval of an amendment, invoice the County for the total amount of the adjustment that accrued during the Retroactive Period, and the County shall pay to Contractor a lump sum to cover that Retroactive Period.

The Contractor shall post a copy of the Wage Ordinance in a prominent place where it can easily be seen by the covered employees and shall supply it to any covered employee upon request. In addition, it is the responsibility of the Contractor to make any person submitting a bid for a subcontract providing covered services aware of the requirements of the Wage Ordinance.

Failure to comply with the provisions of the Wage Ordinance will be deemed a breach of contract and authorize the County to withhold payment of funds in accordance with Chapter 218, F.S.

The Contractor will include the necessary provisions in each of its subcontracts for covered services to ensure compliance with the County's Wage Ordinance. However, the County shall not be deemed a necessary or indispensable party in any litigation between the contractor and subcontractor.

4. FY16-17 Compensation Adjustments related to the County's Minimum Wage Ordinance. The Alachua County Government Minimum Wage for FY16-17 is \$12.50 per hour when health benefits are provided at the equivalent value of \$1.98 per hour, and \$14.48 per hour when health benefits are not provided by the employer. Pursuant to the Wage Ordinance, the Collection Agreement will become subject to the requirements of the Wage Ordinance upon the Effective Date of this Third Amendment, which shall be August 22, 2017. Contractor is entitled to the total amount of \$10,496.98 as a compensation adjustment for costs associated with the Wage Ordinance for the period of August 22, 2017 through September 30, 2017. This amount shall be billed to, and paid by, the County in a lump sum on September 2017 invoice and in equal monthly installments of \$8,186.75 as part of Contractor's regular monthly invoices to County. Commencing August 22, 2017 and continuing until this Collection Agreement is amended again in accordance with the timeline specified Section 1.11.1.3 of Attachment B to the Collection Agreement, Contractor shall add, as a line item to each regular monthly invoice that it submits to the County, the following: **Monthly Minimum Wage Compensation Adjustment: \$8,186.75.**

5. SAVE and EXCEPT as expressly amended herein, all other terms and provisions of the Renewal Agreement, as amended, between the Parties, dated April 22, 2014, shall be and remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Third Amendment to Agreement to be executed for the uses and purposes herein expressed on the day and year set forth above.

ALACHUA COUNTY, FLORIDA

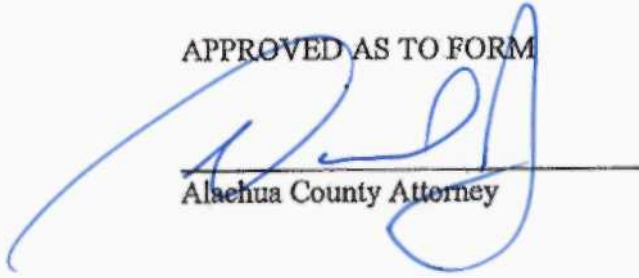
By: 
Ken Cornell, Chair
Board of County Commissioners

ATTEST:

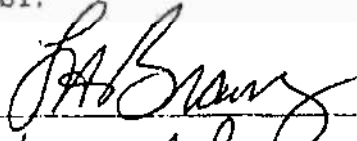

J. K. Irby, Clerk

(SEAL)

APPROVED AS TO FORM


Alachua County Attorney

ATTEST:

By: 
Print: LAURENCE A. BROWN
Title: REGIONAL CONTROLLER

WCA of FLORIDA, LLC

By: 
Print: Bob Shires
Title: Region V.P.

ATTACHMENT D: Certification of Compliance with Alachua County Wage Ordinance

The undersigned certifies that all Covered Employees, contracted and subcontracted, completing services directly related to this Agreement are paid, and will continue to be paid, in accordance with Chapter 22, Article III of the Alachua County Code of Ordinance ("Wage Ordinance") for the term of this Agreement.

Corporate Name: WCA of Florida, LLC

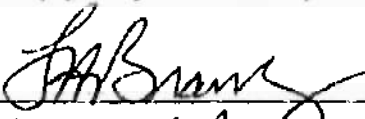
Address: 5002 S.W. 41st Blvd., Gainesville, Florida 32608

Phone Number: (800) 535-9533

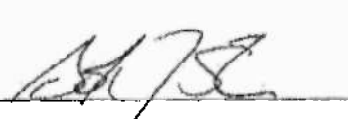
Point of Contact: Brad Avery, Regional Marketing Director

Project Description: _____

ATTEST (By Corporate Officer)

By: 
Print: LAURENCE A. BENDER
Title: REGIONAL CONTROLLER
Date: 8/15/2017

CONTRACTOR

By: 
Print: Bob Shires
Title: Regional Vice President
Date: 8/15/17