



Municipal Solid Waste Collection and Disposal Service Contract

Effective Date: October 1, 2018

GENERAL SPECIFICATIONS & CONTRACT DOCUMENTS

CITY OF EAGLE LAKE, TEXAS

Interim City Manager

Lina Ferguson

Mayor

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Councilmembers:

Michael Cooper

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Alex Ramirez, Jr.

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NOTICE TO PROPOSERS

Solid Waste Collection and Disposal

The City of Eagle Lake Texas, is requesting the submission of qualifications and proposals for services to be rendered for the collection and disposal of solid waste. The City is also requesting the proposals to include curbside recycling services, as an alternate. The Request for Proposals (RFP) package may be obtained from the office of the City Secretary, 100 East Main Street, Eagle Lake, Texas 77434, between the hours of 8:30 a.m., and 4:30 p.m., Monday through Friday.

Sealed bids, in triplicate, on the original forms, will be received by the office of the City Secretary of the City of Eagle Lake, at 100 East Main Street, Eagle Lake, Texas 77434, until 3:00 p.m. on Tuesday, May 1, 2018, and all bids will be opened and publicly read promptly at the City Hall Council Chamber at 3:00 p.m., on the same date. The envelope containing the proposal must be sealed and plainly marked "*Proposal for the City of Eagle Lake, Texas, Municipal Solid Waste Collection and Disposal Services*".

The City reserves the right to reject any or all proposals, to waive irregularities and/or informalities in any proposal, and to make an award in any manner, consistent with law, deemed to be the "best value" and in the best interest of the City.

Proposals must be made on the proposal forms and in accordance with Instructions to Proposers furnished by the office of the City Secretary. Copies of the proposal forms are attached hereto.

The defined terms appearing in the General Specifications apply to all contract documents. The selected proposer will be awarded an "exclusive" or "non-exclusive" City franchise contract by action of the City Council approving and adopting the contract documents, providing for its enforcement and penalties as provided by law. Exclusivity or non-exclusivity for the entire contract term will be determined by the City's optional elections in Exhibit "A" regarding "Roll Off Services". Proposers should carefully review the components for the City's lawful imposition of a franchise fee for use of City streets and regulating safety.

A proposal bond or certified check must accompany the proposal, in accordance with the Instructions to Proposers.

The successful proposer must furnish a Performance Bond from a reputable Surety licensed to conduct business in the State of Texas in the sum of \$500,000.00 (Five Hundred Thousand Dollars and no cents). The successful proposer must also furnish a Payment Bond in the sum of \$250,000.00 (Two Hundred Fifty Thousand Dollars and no cents) from a reputable surety licensed to conduct business in the State of Texas.

The successful proposer must furnish both a Performance Bond and a Payment Bond for the initial term of the contract and any renewal terms.

CITY OF EAGLE LAKE

By: _____
Lina Ferguson, City Secretary

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INSTRUCTIONS TO PROPOSERS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

1. RECEIPT AND OPENING OF PROPOSALS

The City of Eagle Lake, Texas (the "City"), invites and will receive proposals on the forms attached hereto, on which all information must be appropriately filled in. Proposals will be received at the office of the City Secretary of the City of Eagle Lake, located in City Hall, at 100 East Main Street, Eagle Lake, Texas 77434, until 3:00 p.m. on May 1, 2018. The envelopes containing the proposals must be sealed and addressed to City of Eagle Lake, Texas, and plainly marked "Proposal for City of Eagle Lake, Texas, Solid Waste Collection and Disposal Services."

2. NON-MANDATORY PRE-PROPOSAL CONFERENCE

The City will hold a non-mandatory pre-proposal conference on Thursday, April 19, 2018 at 2:00 p.m. at Eagle Lake City Hall Council Chambers at 100 East Main Street, Eagle Lake, Texas 77434.

3. PREPARATION OF THE PROPOSAL

All proposals must be prepared, in triplicate (3), and signed by the proposer on the forms attached hereto. All blank spaces in each proposal form together with appropriate descriptions, schedules and related pricing must be completed in full, in ink or typewritten, in both words and figures where indicated.

If a unit price or a lump sum already entered by the proposer on the proposal form is to be altered, it shall be crossed out with ink and the new unit price or lump sum bid entered above or below it, and initialed by the proposer in ink.

The proposals received will be compared on the basis of the total summation of all the lump sum amounts proposed and the products of the quantities of items listed at the unit prices. It is critical for the proposer to respond to each and every item in order to be deemed responsive and eligible for award. In case of a discrepancy between the total shown in the proposals and that obtained by adding the products of the quantities of items at the unit prices, the unit prices as written out in words in the proposal form shall govern and any errors found in said products, and in the addition, will be corrected by City.

Each proposal, together with appropriate schedules, must be submitted in a sealed envelope bearing on the outside the name of the proposer, his address, and plainly marked "Proposal for the City of Eagle Lake, Texas, Solid Waste Collection and Disposal Services." If forwarding by mail, the sealed envelope containing the proposal must be enclosed in another envelope addressed as specified in the proposal. The City may consider informal and non-responsive any proposal not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all proposals.

Any proposal may be withdrawn by written request prior to the above scheduled time for the opening of proposals or authorized postponement thereof.

Any proposal received after the time and date specified above shall not be considered. The City has made every effort to comply with the laws of the State of Texas. Should any proposer, or prospective proposer, determine the presence of any irregularity or violation, such irregularity or violation should be presented to the City prior to the scheduled proposal opening.

4. PROPOSAL SECURITY AND EVIDENCE OF INSURANCE

Each proposal must be accompanied by a surety bid bond or a certified check of the proposer, drawn on a national bank, in an amount equal to Fifty Thousand Dollars (\$50,000.00), as a guarantee on the part of the proposer that he will, if called upon to do so, accept and enter into a contract on the attached form (or any such modified form as may mutually be agreed upon by the City and the selected proposers), to perform the work covered by such proposal and at the rates stated therein and to furnish a corporate performance bond surety for its faithful and entire fulfillment.

Checks and bonds will be returned promptly after the City and the selected proposer have executed the contract, or, if no proposer's proposal has been selected, within sixty (60) calendar days after the date of the opening (*May 1, 2018*) of proposals, or upon demand of the proposer at any time thereafter, so long as the proposer has not been notified of the acceptance of the proposal.

Each proposal must also be accompanied by a Certificate of Insurance evidencing at least the minimum coverage's set forth in Section 12.00 of the General Specifications.

INSTRUCTIONS TO PROPOSERS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

5. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO THE CONTRACT

The contract shall be deemed as having been awarded when formal notice of award shall have been mailed by the City to the proposer by certified mail, return receipt requested. The proposer to whom the contract shall have been awarded will be required to execute three (3) copies of the contract on the form attached hereto (or any such modified form as may mutually be agreed upon by the City and the selected proposer) and to furnish insurance certificates, all as required. In case of the selected proposers refusal or failure to do so within twenty (20) days after receipt of formal notice of award, the proposer will be considered to have abandoned all rights and interests in the award, and proposer's proposal security (proposal bond or certified check) may be declared forfeited to the City as mutually agreed to liquidated damages and the award may then be made to the next best qualified proposer, or the work re-advertised for proposals as the City may elect. Such forfeited proposal security shall be the sole remedy of the City.

6. SECURITY FOR FAITHFUL PERFORMANCE

The proposal shall be accompanied by a letter from a corporate surety satisfactory to the City stating that a Payment Bond and Performance Bond will be furnished by it to the person submitting the proposal in the event the respective company is the successful proposer. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of a power of attorney attached thereto.

The successful proposer will be required to furnish a performance bond as security for the faithful and complete performance of this contract. Said performance bond must be in the sum of \$500,000.00 (Five Hundred Thousand Dollars and no cents). Said performance bond must be maintained for the initial term of the contract and any renewal terms.

The successful proposer will also be required to furnish a payment bond as security that the proposer will pay any and all subcontractors, suppliers, and laborers that perform work associated with this contract. Said payment bond must be in the sum of \$250,000.00 (Two Hundred Fifty Thousand Dollars and no cents). Said payment bond must be maintained for the initial term of the contract and any renewal terms.

Premiums for the bonds described above shall be paid by the contractor and included within the overall proposal pricing. A certificate from the surety showing that the bond premiums are paid in full shall accompany the bond. The standard form of the bonds is appended hereto. The surety on the bonds shall be a duly authorized corporate surety authorized to do business in the State of Texas.

7. POWER OF ATTORNEY

Attorneys-in-fact who sign bonds must file with each bond a certified and effectively dated copy of their power of attorney.

8. SCOPE OF WORK

The work under this contract shall consist of the items contained in the proposal, the City's election to opt for any additive or deductive alternates, including all incidentals necessary to fully complete said work in accordance with the contract documents.

9. CONDITIONS

Each proposer shall be fully acquainted with the conditions relating to the scope and restrictions attending the execution of the work under the contract. Proposers shall thoroughly examine and be familiar with the General Specifications.

The independent contractor will provide for proper, timely, legal, and outsidess of Eagle Lake disposal of refuse collected by the contractor inside the City limits of the City of Eagle Lake, Texas. It is also expected that the proposer will obtain information concerning the conditions at other locations that may affect this work. The failure or omission of any proposer to receive or examine any form, instrument, addendum or other document, or to become acquainted with existing conditions, shall in no way be relieved of any obligations with respect to the proposer's proposal or the contract. The City shall make all such proposal-related documents available to the proposer(s) upon their reasonable request.

Except with respect to events or conditions which are not discoverable, the proposer(s) shall make their own determination as to existing work conditions and shall assume all risk and responsibility and shall complete the work in and under conditions that may be encountered or created, as are normally encountered in the solid waste collection industry without any extra cost to the City.

INSTRUCTIONS TO PROPOSERS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

The proposer's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full in the contract.

10. ADDENDA AND EXPLANATIONS

Explanations desired by a prospective proposer shall be requested of the City in writing, and if explanations are necessary, a reply shall be made in the form of an Addendum, a written copy of which will be forwarded to each proposer of record known to the City. Addenda will be issued pursuant to questions and comments at the April 19, 2018, pre-proposal conference. Every request for such explanation shall be in writing addressed to the City Manager. Any verbal statements regarding the same by any person prior to the award shall be unauthoritative and not binding.

Addenda issued to prospective proposers prior to date of receipt of proposals shall become a part of the contract documents, and all proposals shall include the work described in the addenda.

Any and all such interpretations and any supplemental instructions will be in the form of written addenda, which, if issued, shall be mailed or when possible, telefaxed, or e-mailed by the City with acknowledgement of receipt by all prospective proposers (at the respective addresses, telefax number or e-mail address furnished for such purposes), not later than five (5) days prior to the date fixed for the opening of proposals on May 1, 2018.

11. NAME, ADDRESS AND LEGAL STATUS OF THE PROPOSER

Each of the three (3) copies of the proposal must be properly signed in ink and the address of the proposer given. The legal status of the proposer, whether corporation, partnership, or individual, shall also be stated in the proposal.

A corporation shall execute the proposal by its duly authorized officers in accordance with its corporate by-laws and shall also list the state in which it is incorporated.

A partnership proposer shall give full names and addresses of all partners. Partnership and individual proponents will be required to state in the proposal the names of all persons interested therein. All individual partners must sign the proposal.

The place of residence of each proposer, or the office address in the case of a firm or company, with county, state and telephone and telefax number, must be given after his signature.

If the proposer is a *joint venture* consisting of a combination of any or all of the above entities, each joint venturer shall execute the proposal and demonstrate in writing any other corporate affiliations.

Anyone signing a proposal as *an agent of another or others* must submit with their proposal and legal evidence of their authority to do so.

12. COMPETENCY OF PROPOSER

The mere opening and reading of the proposal by City shall not be construed as an acceptance of the proposal or proposer as a responsive, qualified, responsible proposal or proposer. The City reserves the right to determine the competence and responsibility of a proposer from its knowledge of the proposer's qualifications and from other reliable public and private sources. Award will be made on the basis of all factors that are available to be judged by the City and deemed by the City to be of the greatest value and advantage to it, considering the type of work involved; the length or duration thereof; the quality availability and adaptability of any personal property or services to the particular use required; the elements of the proposal, including the number and scope of conditions attached to the proposal; the ability, capacity, and skill of the proposer to perform the contract or service required; whether the proposer can perform the contract or provide the service promptly, or within the time required, without delay or interference; the character, responsibility, integrity, reputation, and experience of the proposer; history and performance of proposer in previous public and private jobs; the sufficiency of the financial resources and ability of the proposer to perform the contract or provide service, the ability of the proposer to provide future maintenance, repair, parts, and service for use in the contract; and other factors as shall be determined by the City. The City will require submission with the proposal, supporting data regarding the qualifications of the proposer in order to determine whether he is a qualified, responsible proposer. The proposer will be required to furnish the following information sworn to under oath by the proposer:

INSTRUCTIONS TO PROPOSERS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

(a) An itemized list of the proposer's equipment available for use on the contract. Proposer must commit use of mobile equipment locally that is less than five (5) years old at the commencement of the Contract and never older than five (5) years during the term of the Contract.

(b) A copy of the latest available financial statements of the proposer (or its parent corporation if individual subsidiary or division financial statements are not prepared and generally available) certified by a recognized firm of independent certified public accountants.

(c) Evidence that the proposer is in good standing by the Texas Secretary of State under the laws of the State of Texas, and, in the case of corporations organized under the laws of any other state, evidence that the proposer is licensed to do business and in good standing under the laws of the State of Texas, or a sworn statement that it will take all necessary action to become so licensed if its proposal is accepted.

(d) Evidence, in form and substance satisfactory to City, that proposer has been in existence as a going concern for in excess of five (5) years and possesses not less than five (5) years actual operating experience as a going concern in refuse collection and disposal.

(e) Evidence, in form and substance satisfactory to City that the proposer's experience as a going concern in refuse collection and disposal derives from operations of comparable size to that contemplated by the contract documents. Proposer will submit a list of contracts with contact names and telephone numbers.

In the event that the City shall require additional certified supporting data regarding the qualifications of the proposer in order to determine whether the proposer is a qualified, responsible proposer, the proposer may be required to furnish any or all of the following information sworn to under oath:

(a) Evidence that the proposer is capable of commencing timely and properly equipped performance as required in the contract documents.

(b) Evidence, in form and substance satisfactory to City, that proposer possesses as a going concern, the managerial and financial capacities to perform all phases of the work called for in the contract documents.

(c) Such additional information as will satisfy the City that the proposer is adequately skilled and prepared to fulfill the contract.

The proposer may satisfy any or all of the experience and qualification requirements of this Paragraph 12 by submitting the experience and qualifications of its Parent Corporation and subsidiaries of the parent.

13. DISQUALIFICATION OF PROPOSERS

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following causes, among others, may be considered sufficient for the City's disqualification of a proposer and the rejection of the proposal:

(a) Evidence of collusion among proposers.

(b) Lack of competency as revealed by either non-responsiveness to the proposal requirements, financial statements, experience or equipment statements as submitted or other related factors.

(c) Lack of responsibility as shown by past work judged from the standpoint of workmanship as submitted.

(d) Default on a previous governmental entity contract or failure to perform same.

14. BASIS OF THE PROPOSAL

INSTRUCTIONS TO PROPOSERS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

Proposals with respect to refuse collection and disposal are solicited on the basis of financial rates for each type of collection work. Proposals will be compared on the basis of the summation of the rates and any alternates proposed. The rates as written out in words in the proposal shall govern and any errors found will be corrected by City.

15. QUANTITIES

The City estimates that the number of residential units to be initially serviced under the contract is 1,265. The number of curbside bin collection services under the contract is estimated to be 100 and the number of commercial and industrial Bins is estimated to be 92 (see below). The proposer may wish to utilize other estimates and to provide for growth or shrinkage factors. The City makes no representation as to the reliability of its estimate for residential or commercial units. Unit price computations for all units shall be based upon such estimate.

Bin Size	Frequency Per Week				
	1	2	3	4	5
2 c.y.	24	0			
3 c.y.	7	1			
4 c.y.	15	4			
6 c.y.	9	8	1		
8 c.y.	1	14			

16. AWARD OF CONTRACT

The City reserves the right to accept any responsive and responsible proposal or to reject any or all proposals, and to waive defects or irregularities in any proposal. In particular, any proposer alteration, erasure or interlineations of the contract documents and of the proposal that in any way qualifies the proposal submission in a manner not requested by the City, shall render the accompanying proposal non-responsive, irregular and subject to (but not requiring) rejection by the City.

The award of contract, if made, shall be made to the responsible proposer whose responsive proposal, in the City of Eagle Lake's sole discretion, furthers the best interest of the City. No award shall be made until all necessary investigations have been made to determine the eligibility and responsibility of the proposer under consideration, and the validity of the proposal. Award of a contract, if made, shall be made by the City Council of the City of Eagle Lake, Texas.

17. MUNICIPAL FACILITIES

Attached as *Exhibit B* is a list of municipal facilities that the contractor must provide free service to as specified in the contract documents.

18. COMMUNITY AND SPECIAL EVENTS

The contractor will be required to furnish to the City at no cost, in-place cardboard disposable trash containers, bulk Bins, and/or collection vehicles for up to three (3) community wide and special festival events per year as generally and currently set forth in Exhibit B.

19. SEMI-ANNUAL CLEANUP

As a part of its proposal, the contractor will provide the City three (3) annual clean ups and each clean up will consist of three (3) forty (40) yard Roll Offs for each of the City's cleanups, with three (3) hauls per clean up including the final removal of the container.

INSTRUCTIONS TO PROPOSERS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

20. STORMS AND OTHER DISASTERS

In case of a storm or other disaster, the City Manager, or his designee, may grant the contractor reasonable variance from regular schedules and routes. As soon as practicable after such storm or disaster, the contractor shall advise the City Manager, or his designee, of the estimated time required before regular schedules and routes can be resumed.

In case of a storm or other disaster where it is necessary for the contractor to perform services beyond the scope of this contract in order to help the City recover, the contractor agrees to the best of its ability to assist the City and the City agrees that the contractor shall be paid for additional services based on the labor and vehicle rates supplied in the contractor's proposal.

21. FRANCHISE FEE

The contractor will be required to pay to the City six percent (6%) of “gross amount billed” to the City by the contractor for residential and commercial curbside carts, solid waste, and collection of 2-8 cubic yard commercial Bin pick-ups as a portion of the contract franchise fee. Additionally, as a second component of the franchise fee, the contractor will be required to pay to the City, six (6%) percent of the “gross amount billed” directly to any residential, commercial and industrial customers, by the contractor, for the use of Roll-Off services (20, 30, 40 cubic yard containers). The contract franchise fee is consideration for the contractor’s use of City rights-of-way to collect and haul solid waste and in the interest of City regulation of health, safety and general welfare of City residents. This franchise agreement will only cover items that are quoted in this RFP. Depending upon the City’s initial optional elections in Exhibit “A” regarding “Roll Off Services”, this may be either an “exclusive” or “non-exclusive” franchise contract throughout the contract term.

22. OPTIONS

The City of Eagle Lake is using this RFP as a vehicle to describe the services required to fulfill its needs and not to describe or limit the technologies used by the contractor to provide such services. The proposer represents, by submitting a proposal, the proposer has the tools, equipment, manpower, expertise, technology and capacity to properly and timely provide these described services and the proposer is encouraged to propose any innovative and environmentally safe procedures to implement the requirements of the contract. The City, on behalf of its citizenry, will expect and demand quality service from the successful contractor at all times.

SPECIFICATIONS - Outline

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

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- 1.02 Bin
- 1.03 Brush and Tree Limbs
- 1.04 Bulky Waste
- 1.05 City
- 1.06 Commercial and Industrial Unit
- 1.07 Construction Debris
- 1.08 Container
- 1.09 Contract Documents
- 1.10 Contractor
- 1.11 Dead Animals
- 1.12 Disposal Site
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- 1.20 Roll Off
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SPECIFICATIONS - Outline

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

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- 7.00 NONDISCRIMINATION
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- 15.00 TRANSFERABILITY OF CONTRACT
- 16.00 TYPE OF FRANCHISE CONTRACT
- 17.00 OWNERSHIP

GENERAL SPECIFICATIONS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

1.00 DEFINITIONS

1.01 Curbside Carts – A wheeled receptacle with a capacity not to exceed ninety-six (96) gallon capacity; constructed of plastic, metal and/or fiberglass, designed for automated or semi-automated solid waste collection systems, and having a lid. Carts will be provided with ownership retained by the Contractor, as required in the Contract.

1.02 Bin - Metal receptacle (2, 3, 4, 6, 8 cubic yards) designed to be lifted and emptied mechanically for use only at lighter commercial and industrial units.

1.03 Brush and Tree Limbs – Brush and tree limbs that are less than four (4) feet in length and are with weights or volumes potentially greater than those allowed for bagged yard waste (50 lbs.).

1.04 Bulky Waste – White goods, plumbing fixtures, mattresses, furniture, swing sets, bicycles (without tires) scrap metals, and other waste materials, other than dead animals, with weights or volumes greater than those allowed for bags.

1.05 City - City of Eagle Lake, Texas.

1.06 Commercial and Industrial Unit - All commercial businesses and establishments, including but not limited to stores, offices, restaurants, warehouses and other non-manufacturing facilities, premises, locations or entities, public or private, within the corporate limits of the City.

1.07 Construction Debris - Waste building materials resulting from construction, remodeling, repair or demolition operations including carpet, tile and other floor materials. Construction debris specifically does not include asphalt, dirt, sand, gravel, rock, concrete or similar material addressed in “Pay Pile” below.

1.08 Containers - Metal receptacle (“Bin”) designed to be lifted and emptied mechanically for use only at lighter commercial and industrial units.

1.09 Contract Documents - The Table of Contents, Notice to Proposers, Instructions to Proposers, Specifications - Outline, General Specifications, Exhibits A through C, Performance Bond, Payment Bond, Contract for Services, Resolution, ordinance, or order of the City authorizing the work and services, addenda, and any changes to the Contract for services agreed to by the City and the contractor in writing.

1.10 Contractor - An independent contractor, person, corporation or partnership performing refuse collection and disposal under a solid waste franchise contract with the City.

1.11 Dead Animals - Animals or portions thereof greater than 10 lbs. in weight that have expired from any cause, except those slaughtered or killed for human use.

1.12 Disposal Site - A refuse depository including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal, solid waste refuse and dead animals.

1.13 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, or stable matter.

GENERAL SPECIFICATIONS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

1.14 Gross Amount Billed - Amount billed for all non-Roll-Off services (residential, commercial, bagged, in Bins and additional services) by the contractor to the City, and the amount billed directly by the Contractor to Residential, Commercial and Industrial Users for Roll-Off services.

1.15 Hazardous Waste - Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For purposes of this local contract and related ordinance, the term hazardous waste shall also include motor oil, used oil filters, gasoline, paint and paint cans.

1.16 Pay Pile – An accumulation of waste at a residential, commercial or industrial location that because of its excessive volume, weight, length or unusual character requires special arrangements, fees, scheduling between customer and contractor for collection and disposal. See: Exhibit A-8 “Proposed Rates for Other Services.” Pay Piles also include dirt, sand, gravel rock, concrete and similar materials.

1.17 Producer - An occupant of a commercial, industrial or a residential unit who generates solid waste refuse from his property.

1.18 Refuse - All garbage and rubbish generated by a producer at a residential or commercial unit.

1.19 Residential Unit - A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than four (4) families. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit.

1.20 Roll-Off – A twenty (20), thirty (30), or forty (40) cubic yard container for accumulating and hauling large volumes of solid waste from one generating location.

1.21 Rubbish - All waste wood, wood products, yard waste, wood chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials except dirt, sand, gravel, rock, concrete and similar materials, not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

1.22 Stable Matter - All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

1.23 White Goods – Household appliances including refrigerators which have CFCs removed by a certified technician, stoves and ranges, water heaters, freezers, washing machines and dryers, dishwashers and other similar domestic and commercial large appliances. See also “Bulk Waste”.

1.24 Yard Waste - All items from a yard that can be bagged such as bagged brush or tree limbs, bagged grass clippings and bagged plants, weeds, leaves or branches weighing less than fifty (50) pounds.

1.25 New Vehicle - A vehicle that has not been previously licensed to operate on the public roadways.

2.00 SCOPE OF WORK

The work under this contract shall consist of the items contained in the proposal, including all the supervision, materials, equipment, labor, insurance, bonds, licenses, and all other items necessary to complete said work in accordance with the contract documents.

3.00 COLLECTION OPERATION

GENERAL SPECIFICATIONS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

3.01 Residential Service Provided

(a) Contractor shall provide curbside collection service for the collection of residential refuse including garbage and rubbish for each residential unit one (1) time per week with 96-gallon cart(s) plus two (2) additional 30-gallon bags or customer owned containers. All garbage and rubbish must be properly bagged and shall be placed at curbside by 7:00 a.m. on the designated collection day.

(b) The contractor shall provide curbside bulky waste collection for all residential units, once per week, on the same day as regular curbside collection.

(c) Contractor shall provide curbside collection service for the collection of residential yard waste one time per week. The collection of residential yard waste may occur simultaneously with the collection of residential refuse.

(d) Contractor shall provide curbside collection service for the collection of brush and tree limbs at least one time per week. Brush and tree limbs shall be cut by producer or his contractor in four (4') feet lengths and bundled. Commercial tree trimmers will be allowed to deposit all brush or tree limbs at the curb generated from the lot of producer so long as length restriction of four (4') feet is met.

3.02 Commercial Service Provided

(a) Contractor shall provide curbside collection service for the collection of commercial refuse including garbage and rubbish for each commercial unit requesting such service one (1) time per week with 96-gallon cart(s). All garbage must be properly bagged and shall be placed at the curbside by 7:00 a.m. on the designated collection day.

(b) Contractor shall provide bin collection service for the collection of larger quantities of commercial and industrial refuse to commercial and industrial units according to individual agreements between the customers and the City. Bins shall be made available by contractor in 2, 3, 4, 6 and 8 cubic yards and the frequency of pick-up shall be either 1, 2, 3, 4 or 5 times per week as determined by the customer's needs.

3.03 Additional Services Provided

(a) Contractor shall provide special collection services for solid waste not properly bagged, certain construction debris, brush and tree limbs not properly cut and any other items that do not comply with the volume, weight, length, character restrictions discussed above based on the reasonable "Pay Pile" rates generally established by contractor in this contract. (See Exhibit A-5).

(b) The contractor may from time to time provide for the special collection and disposal of hazardous waste from commercial, industrial and residential units at its sole discretion upon such terms, conditions and prices as contractor shall then specify.

(c) Contractor shall provide twenty (20), thirty (30), or forty (40) roll-off services for the collection of construction and other larger quantities and types of debris to residential, commercial and industrial units according to private individual agreements between the contractor and customer at the prescribed contract prices, included herein if the City grants an exclusive franchise for roll-off service.

(d) Attached as Exhibit B is a list of municipal facilities that the contractor must provide free service to as specified in the contract documents.

(e) The contractor will be required to furnish to the City at no cost, in-place cardboard disposable trash containers, bulk bins, and/or collection vehicles for up to three (3) community-wide and special festival events per year as generally and currently set forth in Exhibit B.

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(f) As a part of its proposal, the contractor will provide the City three (3) annual clean ups and each clean up will consist of three (3) forty (40) yard Roll Offs for each of the City's cleanups, with three (3) hauls per clean up including the final removal of the container. SEE ITP-5 #19

(g) In case of a storm or other disaster, the City Manager, or his designee, may grant the contractor reasonable variance from regular schedules and routes. As soon as practicable after such storm or disaster, the contractor shall advise the City Manager, or his designee, of the estimated time required before regular schedules and routes can be resumed.

In case of a storm or other disaster where it is necessary for the contractor to perform services beyond the scope of this contract in order to help the City recover, the contractor agrees to the best of its ability to assist the City and the City agrees that the contractor shall be paid for additional services based on the labor and vehicle rates supplied in the contractor's proposal.

3.04 Location of Bins and Carts for Collection

(a) Each residential cart(s) shall be placed at curbside for collection. Curbside refers to that portion of public right-of-way adjacent to paved or traveled City roadways (including alleys). Carts shall be placed as close to the roadway as practicable without 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.

(b) Contractor shall provide Bins (2, 3, 4, 6, 8 cubic yard containers) for commercial and industrial units whenever commercial customers request their use. Each Bin shall be placed in an accessible, outside location on a commercial customer-provided hard surface and adequate strength driveway to sustain the weight of loaded Bins and collection trucks, according to individual agreements between the City and commercial customer

(c) Within forty-eight (48) hours of written request from City or customer, all Roll Offs and Bins are to be provided by the contractor.

4.00 COLLECTION OPERATION

4.01 Hours of Operation

(a) Collection of residential refuse shall not start before 7:00 a.m. or continue after 7:00 p.m. on the same day. Exceptions to collection hours shall be affected only upon 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, with prior notice to the City.

(b) Hours of Collection for commercial and industrial bins shall take place according to the routes established by the contractor between the hours of five (5) o'clock a. m. and seven (7) o'clock p.m.

4.02 Routes of Collection

(a) Residential unit collection routes shall be established by the contractor. Contractor shall submit a map designating the intended residential unit collection routes to the City for prior City approval, which approval shall not be unreasonably withheld. The contractor may from time to time propose to City for approval, changes in routes or days of collection affecting residential units, which City approval shall not be unreasonably withheld. Upon City's approval of the proposed changes, Contractor shall promptly give sufficient advanced written or published notice to the affected Residential Units.

(b) Commercial and industrial unit collection routes shall be established by the contractor at its discretion.

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Solid Waste Collection and Disposal, City of Eagle Lake, Texas

4.03 Holidays & Special Pickups – The following shall be City solid waste collection holidays for purposes of this contract:

New Year's Day
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Christmas Day

Contractor may decide to observe any or all of the above-mentioned holidays by suspension of collection service on the holiday. When the normal residential or commercial pick-up falls on a recognized holiday, the pick-up for that residential or commercial service will be one day after their normal Collection day including Saturday if necessary.

4.04 Complaints – All customer complaints shall be made to the City and shall be given prompt and courteous attention. The contractor shall keep and maintain a complete and accurate log of all complaints the contractor receives directly and shall provide copies of said complaint logs to the City monthly. In the case of alleged missed scheduled collections, the contractor shall investigate and, if such allegations are verified, shall arrange for the collection of the refuse not collected within twenty-four (24) hours after the complaint is received.

Within twenty-four (24) hours after receipt of notice, either written, by telephone or by radio, the contractor shall take the necessary action to pick up missed collections, clean up strewn or spilled refuse caused by contractor, and remedy all valid complaints. The contractor shall immediately contact the City Manager or his designee, concerning complaints which the company determines are not valid. Failure by the contractor to remedy valid complaints, regardless of source, within twenty-four (24) hours may cause the City to take administrative action under the terms of the contract.

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(a) Further, there shall be deducted as mutually agreed to liquidated damages (and not as a penalty) from the monthly payments to be made to the contractor by City, the sum of Fifty Dollars (\$50.00) for each valid incident of failure on the part of the contractor to collect, remove, and dispose of, garbage, rubbish, yard waste, household rubbish and/or other refuse in accordance with the terms of this contract. Liquidated damages in the amount of Fifty Dollars (\$50.00) shall also be deducted for each valid incident of contractor carelessness in emptying containers and/or permitting garbage or rubbish to be strewn on and about any property or street. The conditions for such mutually agreed to administrative deduction of liquidated damages shall be as follows:

If the contractor shall remedy the failure, make the collections, and/or clean up the strewn refuse within twenty-four (24) hours after receiving such complaint, then no liquidated damages deduction will be made. Upon failure of the contractor to take such actions within such time, then a deduction of Fifty Dollars (\$50.00) shall be made for each twenty-four (24) hour period during which such failure shall be allowed to continue after such notice.

The time schedule for contractor pick-up of customer special order "Pay Piles" for excess or unusually configured solid waste shall generally be at the next regularly scheduled customer pick-up after contractor and customer have directly made specific scheduling and financial arrangements in accordance with the contract terms where feasible.

(b) Validity of complaints. The parties hereto agree and stipulate that the City Manager, Code Enforcement Department, and/or their agents, shall have the right to properly verify any incidents of missed pickup, or carelessness on the part of the contractor. Such City documented verification shall be final and binding upon the contractor in the assessment of any liquidated damages provided in this, except, however, that customer service complaints shall not be considered valid unless the City shall be notified by 5:00 p.m. on the next business day following the complainant's regular scheduled collection day during which the complaint originated.

(c) The rights reserved to the City under this section are in addition to all other legal contractual rights of the City whether reserved by this contract or authorized by common or statutory law, and no action, proceeding or exercise of a right with respect to liquidated damages shall affect any other right the City may have.

(d) When the contractor observes a customer violation of the solid waste disposal regulations/specifications in the public right-of-way, contractor agrees to picture-phone and transmit evidence of same to the City including address, for City enforcement actions. Contractor will however immediately remove the solid waste from the roadway for disposal and be reimbursed for same by the City.

4.05 Collection Equipment – No residential waste collection vehicle shall be larger than twenty-five (25) cubic yards in capacity. All vehicles, Carts, Bins, Roll Offs and other equipment shall be kept in good repair, appearance, and in sanitary condition at all times. Each vehicle shall have clearly visible on each side the identity and telephone number of the contractor. Vehicles employed at the commencement of the contract shall not be greater than five (5) years old and during the life of the contract, all vehicles utilized shall be no more than five (5) years old.

4.06 Office – The contractor shall maintain an office or such other facilities (toll free number and telefax) through which the contractor can be contacted. It shall be equipped with sufficient telephones and shall have a responsible person in charge from 8:00 a.m. to 5:00 p.m. Monday through Friday. The telephone number of the office shall be prominently displayed on all of the Contractor's containers, carts, and trucks used in the City.

4.07 Hauling - All refuse hauled by the contractor shall be so contained, tied or enclosed that leaking, spilling or blowing are prevented.

4.08 Disposal - All refuse collected for disposal by the contractor shall be hauled to a lawfully permitted disposal site. The charge for disposal, including landfill tipping and related fees, shall be included in the rates set forth in the proposal for each commercial, industrial and residential unit serviced by the contractor.

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4.09 Notification - The contractor shall notify all producers at residential units in a written flyer about complaint procedures, regulations, and routine day(s) for scheduled refuse collection.

4.10 Point of Contact - All dealings, contact, etc., between the contractor and the City shall be directed by the contractor to the City Manager or his designee, and by the City to the Company's representative _____ (title of position).

4.11 Contractor Performance Standards - Performance standards shall include:

(a) Residential collection areas shall be free of litter larger than three (3) inches within a 10-foot radius of the point of customer disposal near the curb. The contractor will make every reasonable effort to leave behind no loose trash, which may fall in the streets or into customer's property from contractor's actions.

(b) The contractor will make all reasonable efforts to collect waste regardless of barriers (i.e. blocked streets) except when the safety and health of contractor employees or the public is placed in danger.

(c) The contractor will make every effort to maintain a consistent route schedule. Any foreseen and predictable adjustments shall be discussed with the City Manager as far in advance as possible to allow for customer notices.

(d) Unless personal or public safety concerns warrant, contractor drivers are expressly forbidden to use their emergency brake to stop a moving contractor vehicle.

(e) The contractor shall not provide solid waste collection service on streets directly adjacent to school campuses one-half (½) hour before the beginning of, or one (1) hour after school dismissal on a scheduled school date.

(f) The contractor will make every reasonable effort to use vehicles that do not leak oil, hydraulic fluid or other substances, or present an unhygienic or unsafe appearance. If there should be a leak from a truck, the contractor will comply with all regulations to lawfully clean up the spill within forty-eight (48) hours of written notification.

(g) In the event of sudden contractor equipment breakdowns, contractor will make every effort to notify the City and customers by telephone or door hangers if the service will be delayed or rescheduled for another pick-up day.

(h) The contractor shall maintain and operate its collection system and equipment in order to render competent and efficient service subject to the terms of this contract. All equipment, including motor vehicles and trucks necessary for the performance of this contract shall, at the beginning of and throughout the term of the contract, be in good condition and repair. The trucks used in collection of solid waste shall be all metal, with completely enclosed "packer" type bodies that are designed and manufactured for the collection of solid waste.

5.00 COMPLIANCE WITH LAW

The contractor shall conduct operations under this contract in compliance with all applicable local, State and federal law provided, however, that the General Specifications shall govern the obligations of the contractor where there exists conflicting ordinances of the City on the subject.

6.00 EFFECTIVE DATE

The contract shall be effective upon the execution of the contract and performance of such contract shall begin on October 1, 2018.

GENERAL SPECIFICATIONS

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7.00 NONDISCRIMINATION

The contractor shall not discriminate against any person because of race, gender, age, religion, national origin, or physically challenged condition.

8.00 INDEMNITY

THE CONTRACTOR WILL INDEMNIFY AND SAVE HARMLESS THE CITY, ITS OFFICERS, SERVANTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEY'S FEES ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES; PROVIDED, HOWEVER, THAT THE CONTRACTOR SHALL NOT BE LIABLE FOR ANY SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES AND ATTORNEY'S FEES ARISING OUT OF ANY CONTESTED AWARD OF THIS CONTRACT BY THE CITY, OR A SOLE (BUT NOT CONCURRENT) WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CITY, ITS OFFICERS, SERVANTS AND EMPLOYEES.

FURTHER, CONTRACTOR AGREES TO INDEMNIFY AND HOLD CITY HARMLESS FOR ANY CONTRACTOR NON-PAYMENT OF ANY SERVICES PROVIDED TO CONTRACTOR BY THIRD PARTIES, INCLUDING BUT NOT LIMITED TO: LABOR, EQUIPMENT, MATERIALS, LANDFILL TIPPING FEES, INSURANCE AND BOND PREMIUMS, PERMITS, REGISTRATIONS, ETC.

9.00 LICENSES AND TAXES

The contractor shall obtain all State and federal licenses and permits (other than the City franchise license and permit granted by this contract) and promptly pay any taxes required by the City and by the State. The contractor acknowledges that the City itself, as a municipal corporation, is a public tax-exempt entity. Appropriate sales taxes will be added to the listed rates. The City will have the responsibility for remitting and reporting sales taxes to the State.

10.00 TERM AND TERMINATION

The contract shall be for a five (5) year period beginning October 1, 2018 and shall include one (1) optional five (5) year extension thereafter at the discretion of the City Council.

Except as otherwise provided herein, if either party defaults in the performance of any of the covenants or conditions contained herein, and fails to cure such default within thirty (30) days after the non-defaulting party has given the defaulting party written notice of such default (or if such default is of a nature that it cannot be cured within such thirty (30) day period, the defaulting party fails to commence the curing of such default within such thirty (30) day period, and fails to thereafter diligently pursue the curing thereof) (the "Cure Period"), the non-defaulting party may: (a) terminate this Agreement as of any date which the non-defaulting party may select, provided said date is at least thirty (30) days after the expiration of the Cure Period; (b) cure the default at the expense of the defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right to all damages or losses suffered as a result of such termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

Additionally, this contract may be terminated for the City's failure to agree to new rates that exceed the CPI rate modification as requested by the contractor, as noted in Section 14.02 (d).

11.00 NOTICE

Any notice herein provided or permitted to be given, made, or accepted by either party must be in writing and may be given by depositing the same in the United States mail postpaid and registered or certified, or by delivering the same to an officer of such party, or by prepaid telegram or telefax addressed to the party to be notified. Notice deposited in the mail in the manner described above shall be conclusively deemed to be effective from and after the expiration of three (3) days after it is so postmarked. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the address of the contractor shall, until changed as hereinafter provided, be as shown on the proposal as required in Paragraph 10 of the Instructions to Proposers and the address of the City shall be as follow

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City Manager
CITY OF EAGLE LAKE
100 East Main Street
Eagle Lake, Texas 77434

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address in the State of Texas by at least fifteen (15) days written notice to the other party.

12.00 INSURANCE

The contractor shall at all times during the contract maintain in full force and effect Employer's Liability, Worker's Compensation, Commercial General Public Liability and Property Damage Insurance, including contractual liability coverage for the provisions of Section 8.00 (INDEMNITY) and Comprehensive Business Automotive Liability. All insurance shall be issued by insurers and for policy limits acceptable to the City and before commencement of work hereunder the contractor agrees to furnish the City certificates of insurance or other evidence satisfactory to the City to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligations:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certificate holder. The City of Eagle Lake and its officers and employees shall be named as "Additional Insured" on all appropriate insurance policies."

For the purpose of the contract, the contractor shall carry at least the following types of insurance and in at least the minimum limits specified below:

<u>Coverages</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory
Employer's Liability	\$1,000,000
Bodily Injury Liability (Except Automobile)	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage Liability (Except Automobile)	\$1,000,000 each occurrence \$1,000,000 aggregate
Business Automobile Bodily Injury Liability	\$1,000,000 each person \$1,000,000 each occurrence
Business Automobile Property Damages Liability	\$1,000,000 each occurrence \$1,000,000 each occurrence
Excess Umbrella Liability	\$5,000,000 each occurrence

Each insurance policy with respect to commercial general and business automobile public liability insurance may provide for a self-insured retention of an amount not to exceed \$100,000.00, with the result that the contractor is its own insurer to that extent. The coverages may be provided by the contractor's parent corporation. Self-insured retention(s) must be backed by sufficient evidence of contractor financial solvency. To the extent that contractor will be managing the collection, transportation and disposal of hazardous wastes, contractor shall also carry pollution legal liability insurance coverage as appropriate.

12.01 Mandatory TWCC Rule 28 TAC Sect. 110.110 Language adapted for this Solid Waste Services Contract

(a) **Definitions:**

Certificate of coverage ("certificate") - A copy of a certificate of insurance, or a coverage agreement (TWCC-81, TWCC- 82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on the contract, for the duration of the contract.

"Duration of the Contract" - includes the time from the beginning of the work on the contract until the contractor's/person's work on the contract has been completed and accepted by the governmental entity.

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“Persons providing services on the Contract” (“subcontractor” in the Texas Labor Code §406.096)

- includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the contract, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the contract.

"Services" - include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to the contract.

- (b) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, §401.011(44) for all employees of the contractor providing services on the contract, for the duration of the contract.
- (c) The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- (d) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the contract, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- (e) The contractor shall obtain from each person providing services on a contract, and provide to the governmental entity:
 - (1) a certificate of coverage, prior to that person beginning work on the contract, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the contract; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the contract.
- (f) The contractor shall retain all required certificates of coverage for the duration of the contract and for three years thereafter.
- (g) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the contract.
- (h) The contractor shall post on each contract site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the contract that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- (i) The contractor shall contractually require each person with whom it contracts to provide services on a contract, to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, §401.011(44) for all of its employees providing services on the contract, for the duration of the contract;

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- (2) provide to the contractor, prior to that person beginning work on the contract, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the contract, for the duration of the contract;
 - (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the contract;
 - (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (i) a certificate of coverage, prior to the other person beginning work on the contract; and
 - (ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the contract;
 - (5) retain all required certificates of coverage on file for the duration of the contract and for three years thereafter;
 - (6) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the contract; and
 - (7) contractually require each person with whom it contracts, to perform as required by clauses (i)-(1-7) of this subparagraph, with the certificates of coverage to be provided to the person for whom they are providing services.
- (j) By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the contract will be covered by workers' compensation coverage for the duration of the contract, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- (k) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

13.00 BONDS

13.01 Performance Bond

- (a) The contractor shall maintain and specifically agrees that it will maintain, throughout the term of the contract, a performance bond with a corporate surety approved by the City.
- (b) The performance bond shall be in the sum of Five Hundred Thousand Dollars (\$500,000.00) conditioned that the contractor shall well and truly observe, fulfill, and perform each term and condition of this contract and that in each case of any breach of condition of the bond, the amount thereof shall be recoverable from the principal (contractor) and surety thereof by the City for all damages resulting from the failure of the contractor to well and faithfully observe and perform any provision of this contract.
- (c) The surety on the bond shall be a duly authorized corporate surety authorized to do business in the State of Texas. Said performance bond obtained by the contractor in compliance with this section shall be filed, updated and maintained with the City Secretary of the City during the term of this contract.

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(d) Premium for the bond shall be paid by the contractor. A certificate from the surety company, showing that the bond premiums are paid in full, shall accompany the bond.

(e) The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under any other law.

13.02 Payment Bond

(a) The contractor shall maintain and specifically agrees that it will maintain, throughout the term of the contract, a payment bond with a corporate surety approved by the City.

(b) The payment bond shall be in the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) conditioned that the contractor shall well and truly make payment to all persons, firms, subcontractors and suppliers furnishing equipment, materials or performing labor in the prosecution of the work and any authorized extensions or modifications thereof, to include bond and insurance premiums, licenses, registrations and landfill disposal fees. The amount of properly perfected claims by third parties shall be recoverable from the principal (contractor) and/or surety for all damages resulting from the failure of the contractor to well and faithfully promptly pay amounts lawfully owed to third parties pursuant to this contract.

(c) The surety on the bond shall be a duly authorized corporate surety authorized to do business in the State of Texas. Said payment bond obtained by the contractor in compliance with this section shall be filed, updated and maintained with the City Secretary of the City during the term of this contract.

(d) Premium for the bond shall be paid by the contractor. A certificate from the surety company, showing that the bond premiums are paid in full, shall accompany the bond.

(e) The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under any other law.

13.03 Power of Attorney - Attorneys-in-fact who sign payment and performance bonds must file with each bond a certified and effectively dated copy of their power of attorney.

13.04 Remedy

(a) Subject to applicable laws, in the event the City determines that the contractor has materially breached this contract or has failed to perform resulting in a contractor default, the City may:

- (1) Seek specific performance from the surety of any provision, which reasonably lends itself to such remedy, as an alternative to damages, or
- (2) Charge to and collect from the contractor, and/or surety, liquidated damages pursuant to Section 4.04 of this contract, or
- (3) Commence an action at law for monetary damages against contractor and/or surety, or seek other equitable relief, or
- (4) Seek recovery from the corporate surety for all damages up to the penal sum of the bond resulting from the failure of the contractor to observe and perform any material provision of the contract resulting in City declaration of default.

(b) The contractor shall not be relieved of any of its obligations to comply promptly with any provision of the contract by reason of any failure or waiver of the City to enforce prompt compliance.

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14.00 BASIS AND METHODS OF PAYMENT

14.01 Collection and Disposal Rates

(a) For collection services required to be performed pursuant to Sections 3.01 - 3.03 the charges shall not exceed the rates as fixed by the contract documents, as adjusted in accordance with Section 14.02.

(b) The refuse collection charges provided by Sections 3.01 – 3.03 shall include all disposal costs at a lawfully licensed landfill.

14.02 Modification to Rates

(a) All proposed modifications to rates under this contract for the second (2nd) and subsequent years of the contract term, or specially petitioned for by contractor pursuant to subsection 14.02 (c) below, shall be effective with the prior approval of the City Council and be in a mutually agreed to written amendment hereto. The City Council is bound to approve rate adjustments for years 2-5 so long as the contractor's proposal follows the formulas contained herein.

The fees which may be charged by the contractor for the second (2nd) and subsequent years of the initial five (5) year term hereof shall be adjusted upward or downward to reflect changes in the cost of operations, as reflected by fluctuations in the Consumer Price Index for All Urban Consumers (Garbage and Trash) series ID CUSR0000SEHG02, as published by the U.S. Department of Labor, Bureau of Labor Statistics. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may then be available so as to carry out the intent of this provision. During August of the first year of the contract and every twelve months thereafter (the "Rate Modification Date"), the fees shall be increased or decreased for the period beginning October 1 of that year in a percentage amount equal to 100% of the net percentage change of the CPI for All Urban Consumers – Garbage and Trash. The percentage change shall be computed as the difference between the index value for the first full month prior to the commencement of the contract (September 2018) and the most recently published index value for the Rate Modification Date divided by the index value for the first full month prior to the commencement of the contract (September 2018).

(b) Prior to August 15th of each year, contractor shall send to the City a comparative statement setting out the following:

- (1) The index value on the first full month prior to the commencement of the Contract (September 2018);
- (2) The most recently published index value for the Rate Modification Date
- (3) The net percentage change;
- (4) The increase or decrease in the fees which may be charged by the contractor.

(c) In addition to the above, the contractor may petition the City at any time for additional rate and price adjustments on the basis of unusual changes in its cost of operations, such as revised laws, ordinances, or regulations; changes in location of disposal sites or changes in disposal charges, a significant and sudden increase in the number of residential units as set forth in Paragraph 15 of the Instructions to Proposer(s), such as City growth or annexation; and for other significant reasons that are substantiated.

(d) Any such rate adjustment pursuant to section 14.02(c) must be pre-approved in writing by City, in its sole discretion, before becoming effective. If the City and contractor cannot agree to a new rate, contractor may, at its option, either (i) continue to perform the services hereunder at the then-existing rate or (ii) elect to terminate this contract with sixty (60) days written notice to City. If the contractor elects to terminate this contract, contractor will continue to provide service at the then-existing rate for 60 days and at the new requested rate after such 60-day period should the City be unable to contract with another company within the 60-day notice period provided above. If continued service is required by contractor beyond the 60-day notice period, there will be no disruption in service and the contractor will continue to provide service at the new rate until the City gives the contractor thirty (30) days written notice that another company has been contracted and the contractor's service will no longer be needed.

GENERAL SPECIFICATIONS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

14.03 City to Act as Collector

The City shall submit statements to and collect from all residential and commercial units for all non-Roll-Off services provided by the contractor, including those accounts that are delinquent. Contractor shall promptly submit accurate statements to the City for services provided in accordance with Section 3.03. Appropriate sales taxes and administrative fees will be added to the listed rates by the City. The City will have the responsibility for remitting and reporting sales taxes to the State.

14.04 Contractor to Act as Collector for Roll-off Service

The Contractor shall directly bill and collect from customers for all Roll-Off services (twenty (20), thirty (30), or forty (40) cubic yard containers. Contractor shall promptly submit accurate statements to the customers for Roll-Off services on a monthly basis. Contractor shall also submit a monthly itemized list of charges for Roll-Off services charged to customers and pay the City a 6% franchise fee on base rate for all Roll-Off services directly billed to the customers by contractor, regardless of collection success. The Contractor is responsible for remitting and reporting sales tax to the State for all Roll-Off services.

14.05 Delinquent and Closed Accounts

The contractor shall discontinue refuse collection service at any residential or commercial unit as set forth in an electronic and/or telefax notice promptly sent to contractor by the City. Upon further restart notification by the City, the contractor shall resume refuse collection on the next regularly scheduled collection day. The City shall hold the contractor harmless from any claims, suits, damages, liabilities or expenses (including but not limited to the extent allowed by law to expenses of investigation or attorney's fees) resulting from the contractor's discontinuing service at any location at the direction of the City.

14.06 Contractor Billings to City

The contractor shall promptly bill the City for non-Roll-Off services rendered to residential and commercial units each month within ten (10) days following the end of the month. Failure of contractor to timely bill the City will result in a discount of the amount owing to contractor amounting to 1% for every ten (10) day period, or part thereof in which contractor is late in billing City. The City shall pay the contractor within thirty (30) days of receipt of any correct and undisputed invoice. Undisputed portions of contractor invoices will be timely paid by City. Such billing and payment shall be based on the price rates and schedules set forth in the contract documents. The contractor shall be entitled to payment for non-Roll-Off services rendered to residential and commercial units irrespective of whether or not the City collects from the customer for such service. The contractor agrees that the City will retain six percent (6%) of the "gross" amount billed for all such non-Roll-Off services by the contractor as a franchise fee for the use, wear and resulting required maintenance of City streets and in furtherance of the City's lawful pursuit of regulating the health, safety and general welfare of its citizenry related to responsibly managing solid waste service providers.

14.07 Records and Reports

City shall have access at all reasonable normal business hours, upon reasonable advance notice, to all of contractor's non-proprietary business records, customer service cards, and all documents relating to the operations of said contractor within the City of Eagle Lake. Upon request, the contractor shall furnish to the City reports of the results of all customer complaints and investigations received and actions taken by contractor.

14.08 Good Faith Dealings

The Parties undertake to act in good faith in relation to the performance and implementation of this contract and to take such other reasonable measures as may be necessary for the realization of its purposes and objectives. Each Party agrees that it will not initiate a dispute against the other Party unless the Party raising the dispute in good faith believes its position is legitimate. The Parties agree to attempt to resolve all disputes arising hereunder promptly, equitably, and in a good faith manner in accordance with the dispute resolution provisions included herein. The Parties further agree to provide each other with reasonable access during normal business hours to any and all non-privileged records, information, and data pertaining to any such dispute.

14.09 Mediation

If a dispute arises out of or relates to this Contract or the breach thereof, the Parties shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, Dallas, Texas, before resorting to arbitration, litigation, or some other dispute resolution procedure; provided that a Party may not invoke mediation unless it has provided the other Party with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation.

GENERAL SPECIFICATIONS

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of this Contract, or otherwise.

15.00 TRANSFERABILITY OF CONTRACT

Other than by operation of law, no assignment of this contract or any right accruing under this contract shall be made in whole or in part by the contractor without the express written consent of the City, which consent shall not be unreasonably withheld. In the event of any such approved assignment, the assignee shall assume the liability of the contractor.

16.00 TYPE OF FRANCHISE CONTRACT

The contractor will be granted the sole and exclusive franchise, license and privilege to provide City-wide refuse collection, removal and disposal services (including roll-off services) within the corporate limits of the City throughout the contract term. The contractor shall collect and properly dispose of dead animals, including return by mail to City or owner of any identifiable registration tags containing address or telephone number that contractor shall remove from deceased domesticated pets. Contractor shall also properly manage and dispose of residentially produced small quantities of hazardous waste from residential units. Contractor shall have the right of first refusal to collect hazardous wastes from commercial and industrial units unless State or federal law provides otherwise as may be amended. Contractor shall never have an exclusive franchise to collect grease trap, grit trap or septage wastes.

As described above herein, the contractor will have an exclusive franchise contract for Roll-Off service.
See GS-3.03c.

17.0 OWNERSHIP

Title to refuse, dead animals and only residentially produced small quantities of hazardous waste, shall pass to the contractor when placed in contractor's collection vehicle, removed by contractor from a bin or container, or removed by contractor from the customer's premises, whichever last occurs.

EXHIBIT "A"

CONTRACTOR'S PROPOSAL

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

TO: Lina Ferguson, Interim City Manager
100 East Main Street
Eagle Lake, Texas 774434

Proposal _____, a limited Partnership duly organized under the laws of the State of _____.

The undersigned having carefully read and considered the terms and conditions of the municipal franchise contract documents for Solid Waste Collection and Disposal Services for the City of Eagle Lake, does hereby offer to perform such services on behalf of the City and/or its residents and commercial/industrial customers, of the type and quality and in the manner described, and subject to and in accordance with the terms and conditions set forth in the contract documents as the rates (expressed in words and figures) hereinafter set forth:

PROPOSAL COST FORM

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

TO: The City Manager of the City of Eagle Lake, Texas

The undersigned proposer agrees, if this proposal is accepted by the City, to enter into the contract with the City of Eagle Lake, Texas ("the City"), to complete all services and perform all work in strict conformity with the terms and conditions set forth in the final signed contract documents and any laws, statutes, ordinances, rules, or regulations of any governmental agencies or public authorities relating thereto.

Proposer declares that no person(s) or entity(ies) other than those named herein are interested in this proposal; that this proposal is made without collusion with any other person, firm or corporation; and that no person or persons acting in any official capacity for, or employed by the City, are directly or indirectly interested in this proposal, or in any portion of any profit to be partially earned or derived thereof, or employed by, or in any way an owner of any interest in proposer.

This proposal is not required by law to be awarded by City to any proposer, or even to the lowest priced responsive and responsible proposer. Therefore, the City retains the right to award this contract based upon the proposal which is deemed to be in the best interest and value of the City. **The term for any awarded exclusive or non-exclusive franchise solid waste operations agreement is for an initial five (5) year term beginning October 1, 2018 and shall include one (1) optional five (5)-year extension thereafter at the discretion of the City Council.**

In submitting this proposal, proposer represents, as more fully set forth in the RFP, that proposer has:

1. Examined the Table of Contents, Notice to Proposers, Instructions to Proposers, Specifications - Outline, General Specifications, Exhibits A through C, Performance Bond, Payment Bond, Contract for Services, Resolution, ordinance, or order of the City authorizing the work and services, and any addenda or changes to the foregoing documents., with all conditions contained therein;
2. Examined the actual City corporate limits size, locality, school locations, and City streets where the services are to be performed;
3. Familiarized himself with the legal requirements, including, but not limited to, all federal, State and local laws, ordinances, rules and regulations;

4. Made such independent investigations as he deems necessary, including but not limited to: availability of area landfills; State connecting highways; any "weight limited" highways; railroad crossings and trestles; school zones; suitability of private commercial customer Bin pads and driveways to sustain weight loads and identifying those that must be privately improved; alleys and underpasses;
5. Has satisfied himself as to all conditions affecting cost, progress or performance of the work and all difficulties that may arise or be encountered in the performance of the work; and
6. Has made his proposal on the basis of the above examinations, and not on the basis of any oral representations or promises made to him by the City, or any officer or employee of the City.

Proposer further agrees as follows:

1. That this proposal shall remain open for City acceptance and may not be withdrawn for sixty (60) days after the prescribed date of opening by the City;
2. That he accepts all of the terms and conditions of the RFP, including, without limitation, those dealing with the disposition of his proposal security;
3. And that, upon any acceptance of the contract and award by the City, he will execute a contract and will furnish the required Performance and Payment Bonds and insurance certificates as set forth in the attached contract documents.

In accordance with the above understanding and agreements, proposers will complete the work for the following in the contract area consisting of single and multi-family residential and designated non-residential commercial and industrial customers within the City limits of Eagle Lake, Texas. Prices shall include all applicable federal, state, county and City taxes as may be applicable to any component of the services to be provided.

OPTION # 1

Includes:

1. Residential pick-up as described below.
2. Commercial pick-up as described below

OPTION # 1:	
Summary of Service	Per Unit (Per Month)
RESIDENTIAL Curbside residential refuse collection service including garbage and rubbish per residential unit for one (1) pick up per week with 96-gallon cart(s), not including Sunday, also including: <ul style="list-style-type: none"> • Collection of two (2) additional 30-gallon bags or customer owned containers. • Collection of bulky waste one (1) time per week. • Collection of brush and tree limbs one (1) time per week. 	_____
	(Amount in figures)

	(Amount in words)

COMMERCIAL

Commercial curbside collection service including garbage and rubbish for each commercial unit for one (1) pick up per week with 96-gallon cart(s), not including Sunday, and does NOT include:

- Collection of bulky waste
- Collection of brush and tree limbs

\$ _____
(Amount in figures)

(Amount in words)

**COMMERCIAL PRICE SCHEDULE FOR
COMMERCIAL UNITS REQUIRING BIN SERVICE**

Bin Size	Frequency Per Week					Additional Pick-up
	1	2	3	4	5	
2 c.y.						
In Words						
3 c.y.						
In Words						
4 c.y.						
In Words						
6 c.y.						
In Words						
8 c.y.						
In Words						
Compactor						
In Words						

Roll-Off Services

Roll-off services will be provided by the contractor on an exclusive franchise basis. According to the rates identified below.			
SIZE	20 CUBIC YARD	30 CUBIC YARD	40 CUBIC YARD
Delivery Fee Per Roll Off			
Monthly Rental			
Pull Price (Per Roll Off)			
Disposal Fee – Loose (Per Yard)			
Disposal Fee – Compacted (Per Yard)			
TOTAL CHARGE PER HAUL			

Note: Bins and Roll-Offs to be furnished within forty-eight (48) hours of written request. Bins and Roll-Offs must also be properly maintained and periodically cleaned at least once (1) every two (2) months by contractor.

PROPOSED RATE FOR OTHER SERVICES

- A. Rate Schedule for Special Services: Rates for “Pay Pile” pick-ups not covered by Options 1 and 2 above such as brush and tree limbs at commercial units, construction debris at residential or commercial units, tree limbs greater than four (4) feet in length and other excessive amounts of solid waste.

<u>Special Service</u>	<u>Hourly Rate</u>	<u>Disposal Cost (Per Cubic Yard)</u>
Brush and Tree Limbs at Commercial Units		
Construction Debris at Residential Units		
Construction Debris at Commercial Units		
Tree limbs greater than four (4) feet in length either at Residential Units or Commercial Units		
Other Excessive amounts of garbage at Residential Units violating volume or weight limits		
Other Excessive amounts of garbage at Commercial Units violating volume or weight limits		
Asphalt, dirt, sand, gravel, rock, concrete or similar excavation/demolition materials at any Units		

B. Rate schedule for City services:

The Contractor will provide service for City-dedicated Roll-Offs, including the disposal of wastewater treatment plant sludge, provided the Contractor has an exclusive City-wide contract for Roll-Off services. The City will provide Contractor with the historic average per cent solids for City sludges. The rate will include a rate to pull the Roll-Offs and a rate for disposal. There is a separate rate for sludge and garbage.

1. Pull Price for City Roll-off with Sludge

(amount in figures)

(amount in words)

2. Disposal Rate (Per Yard) for City Roll-offs with Sludge

(amount in figures)

(amount in words)

3. Pull Price for City Roll-off with Regular Garbage

(amount in figures)

(amount in words)

4. Disposal Rate (Per Yard) for City Roll-offs with Regular Garbage

(amount in figures)

(amount in words)

C. Schedule for fees for additional labor and equipment to respond to storms and other natural disasters:

The contractor is to provide one or more collection vehicles on a per hour rate. The hourly rate will include all labor, equipment, supervision, maintenance and disposal cost associated with the utilization of the vehicle.

Unit cost per hour per collection vehicle with operator(s):

\$

(amount in figures)

\$

(amount in words)

EXHIBIT "B"

Service Requirements for Municipal Facilities

As part of the City's consideration for granting any type of franchise contract rights, the Contractor agrees to provide solid waste collection and disposal services to the City-owned facilities as indicated at the locations below at no cost to the City.

CITY BUILDINGS, PARKS AND FACILITIES

LOCATION	ADDRESS	NUMBER	SIZE (cubic yards.)	FREQUENCY OF PICK-UP
Airport Terminal	322 East Airline	1	96 gal	1
Community Center	100 North Walnut	1	4	1
Fire Department	104 East Post Office	1	2	1
Police Department	200 West Post Office	1	2	1
Public Works	207 West Davitt	1	8	1
Wastewater Treatment Plant	408 South McCarty	1	3	1
Pool/Park	404 South McCarty	2	96 gal	1 (seasonal)
Golf Course	210 Golf Course	1	3	1

FESTIVALS AND EVENTS

Festival and Event Requirements:

One 4 cubic yard container placed at the Chamber Office on East Main
Ten waste boxes with 50 wide mouth bags
Containers will be delivered at least a day in advance of the event
Containers will be picked up no later than the day after event

Possible events include, but are not limited:

Eagle Lake Alive – 1st Saturday in August, or to be determined
Christmas Parade – 2nd Saturday in December

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT _____
(Name of Contractor)

(Address of Contractor)

a _____
(corporation, partnership, or individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto the CITY OF EAGLE LAKE, TEXAS, hereinafter called OWNER, as Obligee, in the penal sum of FIVE HUNDRED THOUSAND AND NO/100 Dollars (\$500,000.00) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain Contract with the OWNER, dated the ____ day of _____, 2018, a copy of which is hereto attached and made a part hereof, for Solid Waste Collection and Disposal Services.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and shall fully **INDEMNIFY AND SAVE HARMLESS THE OWNER** from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

This bond is subject to and governed by Section 2253.02 of the Texas Government Code (Vernon's Texas Codes Annotated) and Article 7.19-1 of Vernon's Texas Insurance Code and all amendments thereto.

IN WITNESS WHEREOF, this instrument is executed in triplicate, each counterpart of which shall be deemed an original, this the ____ day of _____, 2018.

ATTEST: _____
(Principal)

(Principal) Secretary By: _____(s)
(Signature)

(SEAL)

(Witness as to Principal) _____
(Address) _____

(Address) _____

ATTEST: _____
(Surety)

(Surety) Secretary By: _____
(Attorney-in-Fact)

(SEAL)

(Witness as to Surety) _____
(Address) _____

(Address) _____

NOTE: Date of BOND must not be prior to date of Contract execution. If Contractor is a Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must be legally authorized by the State Board of Insurance to transact business in the State of Texas.

ATTACH POWER OF ATTORNEY

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT _____
(Name of Contractor)

(Address of Contractor)

a _____ hereinafter called

Principal, and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto the CITY OF EAGLE LAKE, TEXAS, hereinafter called OWNER, as Obligee, in the penal sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 Dollars (\$250,000.00) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain Contract with the OWNER, dated the _____ day of _____, 2018, a copy of which is hereto attached and made a part hereof, for Solid Waste Collection and Disposal Services.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing equipment, materials or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, repairs on machinery, equipment and tools, consumed or used in connection with the performance of such WORK, and all insurance premiums on said WORK, and for all labor performed in such WORK, whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to WORK to be performed thereunder, or the SPECIFICATIONS accompanying the same, shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge any remaining legal right of any beneficiary hereunder, whose timely filed and legally perfected claim may be unsatisfied.

This bond is subject to and governed Section 2253.02 of the Texas Government Code (Vernon's Texas Codes Annotated) and Article 7.19-1 of Vernon's Texas Insurance Code and all amendments thereto.

IN WITNESS WHEREOF, this instrument is executed in triplicate, each counterpart of which shall be deemed an original, this the ____ day of _____, 2018.

ATTEST:

(Principal)

(Principal) Secretary

By: _____
(Signature)

(SEAL)

(Witness as to Principal)

(Address)

(Address)

ATTEST:

(Surety)

(Surety) Secretary

By: _____
(Attorney-in-Fact)

(SEAL)

(Witness as to Surety)

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract execution. If Contractor is a Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must be legally authorized by the State Board of Insurance to transact business in the State of Texas.

ATTACH POWER OF ATTORNEY

CONTRACT FOR SERVICES

Solid Waste Collection and Disposal, City of Eagle Lake, Texas

THIS FRANCHISE CONTRACT made and entered into this _____, by and between the City of Eagle Lake, a Municipal Corporation of Colorado County, Texas, (hereinafter called the "City") and _____, an independent contractor (hereinafter called "Contractor").

WHEREAS, the Contractor did on the ____ day of _____, submit a proposal to provide solid waste collection and disposal services within the City and to perform such work as may be incidental thereto. NOW, THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

1. The Contractor is hereby granted an exclusive franchise, license and privilege within the territorial jurisdiction of the City and shall furnish all personnel, labor, equipment, trucks, and all other items necessary to properly provide solid waste collection, removal and disposal services as specified herein, and to perform all of the work called for and described in the contract documents, in the furtherance of the health, safety and general welfare of the City and its citizenry.
2. The contract documents shall include the following documents, and this contract does hereby expressly incorporate same herein as fully as if set forth verbatim in this contract:
 - a) Table of Contents
 - b) Notice to Proposers
 - c) Instructions to Proposers
 - d) Specifications - Outline
 - e) General Specifications
 - f) Exhibit A - Contractor's Proposal
 - g) Exhibit B - City Facilities
 - h) Performance Bond
 - i) Payment Bonds
 - j) Contract for Services
 - k) Resolution, ordinance, or order of the City
 - l) Any addenda or written changes to the contract
3. All provisions of the contract documents shall be strictly complied with and conformed to by the contractor and the City, and no amendment to this contract shall be made except upon the written consent of the parties, which consents shall not be unreasonably withheld. No amendment shall be construed to release either party from any obligation of the contract documents except as specifically provided for in such written amendment.
4. The City, through its City Council, reserves unto itself the exclusive right to interpret the terms, provisions, words, phrases, intent and meaning of each and every provision of this agreement and all attachments, exhibits and provisions referred to herein. In the event of dispute, disagreement, or misunderstanding as to the intent, meaning, purpose or conflict in any part or provision of this agreement, the City Council of the City shall provide the parties an opportunity to be heard in public session, shall hear such argument or receive such written material that may be made available under such rules as may be established by the City Council for such purpose, and shall render a decision and/or provide such interpretation as shall be required. The decision of the City Council shall be final and binding and shall not be subject to appeal unless such decision is contrary to controlling applicable federal or state law.
5. This contract is entered into subject to the following conditions
 - a. The contractor shall procure and keep in full force and effect throughout the term of this contract all of the insurance policies and bonds specified in, and required by, the contract documents.
 - b. Neither the contractor nor the City shall be liable for the failure to temporarily perform their duties if such failure is caused by a catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act of God or other similar contingency beyond the reasonable control of either party. Either party will exert good faith efforts to mitigate the interfering contingency and return to normal performance of the contract as soon as practically possible.

- c. In the event that any provision or portion thereof of any contract document shall be found to be invalid or unenforceable, then such provision or portion thereof shall be mutually reformed by the parties in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any contract document shall not affect the validity or enforceability of any other provision or portion of the contract document.
- d. Venue for any state litigation associated with this Contract shall be in a court of competent jurisdiction in Colorado County, Texas. Venue for any federal jurisdiction questions shall initially be in Houston, Texas.
- e. The initial term of this contract shall be for a five (5) year period beginning October 1, 2018 and shall include one (1) optional five-year (5) extension thereafter at the discretion of the City Council. Either party may approach and propose a contract amendment to the other party after six (6) months of historic operations under the initial contract. Any mutually agreed to amendment will be reduced to writing to memorialize same.

IN WITNESS WHEREOF, we, the contracting parties, by our legally authorized representatives, hereto affix our signatures and seals at Eagle Lake, Texas, as of the ____ day of _____2018. City of Eagle Lake, Texas, a Municipal Corporation of Colorado County, Texas

CITY OF EAGLE LAKE
 A Municipal Corporation of
 Colorado County, Texas

By: _____
 Mary Parr, Mayor

By: _____
 Company Representative

ATTEST:

ATTEST:

By: _____
 Lina Ferguson, City Secretary

By: _____
 Company Representative

APPROVED AS TO FORM:

By: _____
 Donald Bendy, City Attorney

CITY SEAL

(CITY OF EAGLE LAKE)

STATE OF TEXAS §

COUNTY OF COLORADO §

BEFORE ME, _____ (notary's name) on this day personally appeared _____, the _____ of the City of Eagle Lake, Texas, a municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the official public capacity stated, as the act of the municipal corporation, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, 2018.

(stamp)

Notary Public in and for the State of Texas

(CONTRACTOR)

_____ §

COUNTY OF _____ §

BEFORE ME, _____ (notary's name) on this day personally appeared _____, the _____ of _____, known to me to be the person whose name is subscribed to the foregoing legal instrument and acknowledged to me that he executed the same in the capacity stated, as the act of the _____, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this ____ day _____, 2018.

(stamp)

Notary Public in and for the State of Texas