

**FIRST AMENDMENT AND EXTENSION OF THE EXCLUSIVE FRANCHISE AGREEMENT
FOR THE COLLECTION, HAULING, RECYCLING AND DISPOSAL OF
MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS
FOR THE CITY OF PFLUGERVILLE, TEXAS**

This First Amendment and Extension Agreement (the "Amendment") is entered into this 30th day of OCTOBER, 2012 to be effective as of February 1, 2013 by and between Progressive Waste Solutions of TX, Inc. (the "Service Provider") and the City of Pflugerville, Texas (the "City"), collectively referred to as the "Parties".

RECITALS

WHEREAS, the IESI TX Corporation and the City entered into an Exclusive Franchise Agreement for the Collection, Hauling, Recycling and Disposal of Municipal Solid Waste and Recyclable Materials in the City of Pflugerville, Texas dated as of February 1, 2010 (the "Agreement");

WHEREAS, on June 20, 2012 IESI TX Corporation changed its name to Progressive Waste Solutions of TX, Inc.; and

WHEREAS, the Service Provider and the City mutually desire to amend and extend the Agreement as further described below.

AGREEMENT

NOW THEREFORE, and in consideration of the premises and such other lawful consideration, the receipt and sufficiency of which each of the Parties hereto acknowledge, the Parties agree as follows:

1. Term of Agreement. The first paragraph of Section 12 of the Agreement is hereby deleted in its entirety and replaced as follows:

"The term of this Agreement shall be for a period of five (5) years, commencing on February 1, 2013 and concluding on January 31, 2018."

2. Defined Terms. The following definitions are hereby added to Section 1 of the Agreement.

"A. Contract Year – A one year period beginning on February 1 and ending on January 31.

B. Dumpster – A metal receptacle typically used in the solid waste disposal industry no less than two (2) cubic yards nor larger than ten (10) cubic yards that is designed to be lifted and emptied mechanically."

3. Residential Units. Section 4.A. of the Agreement is hereby deleted in its entirety and replaced as follows:

"The Service Provider will collect Municipal Solid Waste from Residential Units once per week and Recyclable Materials from Residential Units once every other week; provided, that (i) such Municipal Solid Waste and Recyclable Materials are placed in Containers provided by the Service Provider, and (ii) such Containers are placed within five (5) feet of the curbside or right of way adjacent to the Residential Unit no later than 7:00 a.m. on the scheduled collection day. The Service Provider shall not provide the Services before 7:00 a.m. or after 7:00 p.m. Roll-Outs for new Residential Units will be delivered within seven (7) Business Days from the date of notice to the Service Provider. Replacements for damaged or stolen Roll-Outs will be delivered within (3) business days from the date of notice to the Service Provider. The City will notify the Service Provider of new/replacement Roll-Out orders by 3:00 p.m. each business day. The Service Provider's failure to deliver the appropriate Containers to a Residential Unit will subject the Service Provider to a penalty of \$25.00 per occurrence."

4. Collection Routes. Section 4.D of the Agreement is hereby amended as follows:

A. The third sentence of Section 4.D. of the Agreement is hereby deleted in its entirety.

B. The last sentence of Section 4.D. is hereby deleted in its entirety and replaced as follows:

"Upon the City's approval of such changes, the Service Provider will provide the City with the route changes to post to the City's web site."

5. Recycling Facility. Section 4.E. of the Agreement is hereby deleted in its entirety and replaced as follows:

"The Service Provider currently owns and operates the Central Texas Secure Shredding and Recycling Facility to process Recyclable Materials in the Greater Austin area, located at 16805 Radholme Court, Round Rock, Texas 78664 (the "Recycling Facility"). In addition, the Service Provider utilizes other Recyclable Materials processing facilities ("3rd Party Facilities") for the Recyclable Materials collected as part of the Single-Stream Recycling program in the City as outlined in this Agreement. The Service Provider shall utilize the Recycling Facility as well as any 3rd Party Facilities and/or any future recycling facility owned and operated by the Service Provider for the Recyclable Materials collected as part of the Single-Stream Recycling program in the City that optimizes the performance of the Single-Stream Recycling program to best meet the needs and goals of the City. The Service Provider shall have the sole authority in determining which

facility it will use to process the Recyclable Materials it collects pursuant to this Agreement.”

6. Damaged Roll-Out Audit and Replacement. The following is hereby added to the Agreement as Section 4.F.

“The Service Provider will audit each Residential Unit’s Roll-Out within the City beginning on February 1, 2013 to identify damaged or cracked Roll-Outs that need to be replaced with new or newly reconditioned Roll-Outs. If less than ten percent (10%) of all Roll-Outs within the City are identified as damaged, as determined by the Service Provider in its sole discretion, the damaged Roll-Outs will be replaced by May 1, 2013 and if more than ten percent (10%) of the Roll-Outs in the City are identified as damaged by the Service Provider then the Service Provider and the City will work together to establish a reasonable time frame for the replacement of the damaged Roll-Outs within the City. The replacement Roll-Outs will be delivered on the Residential Unit’s regular service day. For the remaining term of the Agreement thereafter, the Service Provider’s dispatchers will be notified by the Service Provider’s route personnel of any damaged or cracked Roll-Outs that require replacement and such damaged Roll-Outs will be replaced on the Residential Unit’s regular service day within two weeks of notification to the dispatcher. The Service Provider will notify the City on a weekly basis of any damaged Roll-Outs that will be replaced.”

7. Quarterly Public Service Announcement. Section 5.A. of the Agreement is hereby deleted in its entirety and replaced as follows:

“The Service Provider will work with the City of Pflugerville’s Public Information Officer to determine the best methods of providing information regarding Municipal Solid Waste and recycling services to the Residential Units. The Service Provider agrees to pay up to \$3,100 by the end of each Contract Year to the City to assist the City in providing this information.”

8. Municipal Locations. Section 6.A. of the Agreement is hereby deleted in its entirety and replaced as follows:

“The Service Provider will provide, at no cost to the City, an adequate number of Dumpsters, Roll-Outs and Recycling Containers to collect Municipal Solid Waste and Recyclable Materials at all current and future municipal locations within the City one to three times per week, as needed. Specifically, the provisions of this Section 6.A. shall apply to all current Roll-Out services provided at City locations and Dumpster services on Exhibit C attached hereto.”

9. Special Events. Section 6.B. of the Agreement is hereby deleted in its entirety and replaced as follows:

"In addition, the Service Provider will provide, as part of the consideration, an adequate number of Containers to collect Municipal Solid Waste and Recyclable Materials at certain special events, including those listed below; provided that the City gives the Service Provider reasonable prior written notice of the date of such special event as well as the number of Containers that will be required.

- Deutschen Pfest
- Spring Pfling
- Lake Pflugerville Triathlon
- Pflugerville Pfirecracker Pfestival
- City Wide cleanup
- Chili Pfest
- KidFish

The Service Provider shall provide services to the City for up to five (5) additional special events during the term of this Agreement as part of the consideration. In excess of the five (5) additional special events, the Service Provider will provide additional services for such additional events that are not listed or mutually agreed upon by both parties at a rate quoted by the Service Provider at the time of the request."

10. Operating Cost Adjustment. The first sentence of Section 10.A. of the Agreement is hereby amended by replacing "February 1, 2012" with "February 1, 2016".

11. Fuel Cost Adjustment. The following is hereby added to the Agreement as Section 10.C.

"Beginning on February 1, 2014 and on each anniversary date of this Agreement thereafter, the Service Provider may petition the City to adjust the rate provided in Exhibit "B" herein for any Residential Unit utilizing only one (1) Roll-Out and one (1) Recycling Container (the "Base Rate") for any Contract Year in which the average price of diesel fuel during the preceding Contract Year exceeded \$3.82 per gallon (the "Base Price"). This adjustment shall be reviewed on an annual basis and the City's consent to such adjustment shall not be unreasonably withheld, conditioned or delayed. The average price of diesel fuel will be determined by reference to the U.S. Energy Administration / Department of Energy published price for diesel fuel – gulf coast region. The following website (or any successor website) will be the source for such information:

http://tonto.eia.doe.gov/oog/info/wohdp/diesel_detail_report_combined.asp

The average price of diesel fuel for each Contract Year (each, an "Average Annual Price") shall be the average of the weekly fuel prices published for each week during such year.

The fuel cost adjustment for any Contract Year (each, a "Fuel Cost Adjustment") shall be the product of (i) 6.60 % and (ii) a fraction the numerator of which is equal to the

difference between the Base Price and the Average Annual Price and the denominator of which is the Base Price. In the event the Average Annual Price is greater than the Base Price, the Fuel Cost Adjustment shall be an upward adjustment to Base Rate. In the event the Average Annual Price is less than the Base Price, the Fuel Cost Adjustment shall be a downward adjustment to Base Rate; provided that no downward adjustment shall cause the Base Rate to go below the initial rate for any Residential Units utilizing only one (1) Roll-Out and one (1) Recycling Container, as contained in Exhibit "B" hereof. Each Fuel Cost Adjustment shall be effective during the Contract Year immediately following the Contract Year for which such Fuel Cost Adjustment was determined.

Formula:

$$[(\text{Average Annual Price} - \text{Base Price}) / \text{Base Price}] \times 6.60\% = \text{Fuel Cost Adjustment}$$

Example:

Assume the Average Annual Price of diesel fuel was \$4.30 for the Contract Year ending on January 31, 2014.

$[(4.30 - 3.82) / 3.82] = 0.1257 \times 6.60\% = .83\%$ increase to the monthly rate contained in Exhibit B hereof for each Residential Unit utilizing only one (1) Roll-Out and one (1) Recycling Container for the Contract Year beginning on February 1, 2014.

$\$14.98 \times .83\% = \0.01 fuel adjustment to the monthly rate contained in Exhibit B herein for each Residential Unit utilizing only one (1) Roll-Out and one (1) Recycling Container, making the new rate \$14.99."

12. Termination. Section 27 of the Agreement is hereby deleted in its entirety and replaced as follows:

"Any failure by either party or its successors and assigns to observe the terms and conditions of this Agreement shall, if continuing or persisting without remedy for more than thirty (30) days after the receipt of due written notice from the other party, constitute grounds for forfeiture and immediate termination of this Agreement by the non-defaulting party. In the event the City terminates this Agreement pursuant to this Section 27, the sole remedy of the City shall be collection under the performance bond pursuant to Section 37 hereof."

13. Notices. The following is hereby added to the Agreement as Section 36:

"Any notices required or permitted to be delivered hereunder shall be sent via email and in writing and shall be deemed to be delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the respective party at the address and email address below:

If to the City:

City of Pflugerville
P.O. Box 589
Pflugerville, TX 78691
Attn: City Manager
citymanager@pflugervilletx.gov

If to the Service Provider:

Progressive Waste Solutions of TX, Inc.
P.O. Box 141697
Austin, TX 78714
Attn: Division Manager
pflugerville@iesi.com

With a copy to:

IESI Corporation
2301 Eagle Parkway, Ste. 200
Fort Worth, TX 76177
Attn: Legal

14. Performance Bond. The following is hereby added to the Agreement as Section 37:

"The Service Provider shall maintain a performance bond in the amount of \$3,000,000.00 (Three Million Dollars and no /100) payable to the City for the purpose of guaranteeing the performance of the Services set forth herein. The surety on the bond must be by a duly authorized corporate surety company authorized to do business in the State of Texas. Said bond shall be payable to the City in the event that the Service Provider fails to cure any default of this Agreement and shall be the sole remedy available to the City for any default under this Agreement by the Service Provider."

15. EXHIBIT "B". Exhibit "B" of the Agreement is hereby deleted in its entirety and replaced as follows:

"Residential Unit Services. For the Municipal Solid Waste and Recyclable Materials collection services provided to Residential Units under Section 4.A. hereof, the Service Provider shall charge (i) \$14.98 per month for each Residential Unit utilizing one Roll-Out and one Recycling Container*, plus (ii) \$6.00 per month for each additional Roll-Out utilized by such Residential Unit, plus (iii) \$2.50 per month for each additional Recycling Container utilized by such Residential Unit. These rates apply to all Residential Units that are located within the City's corporate limits, the City's ETJ, and/or expanded service areas and billed by the City for water and sewer services.

**This rate is the only rate subject to a Fuel Cost Adjustment in accordance with Section 10.C. hereof."*

16. EXHIBIT "C". Exhibit "C" attached hereto is hereby added to the Agreement to show Dumpster locations in the City as provided for in Section 6.A. hereof.

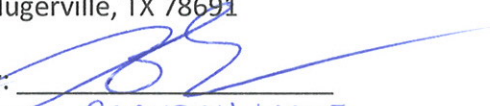
17. Reaffirmation. The Parties hereby reaffirm their agreement with all the terms and provisions of the Agreement, as amended by this Amendment.

18. Entire Agreement. The Agreement together with this Amendment represents the entire agreement among the parties with respect to the matters that are the subject hereof.

19. Counterparts: Facsimile Signatures. The Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall collectively constitute one and the same instrument representing this Amendment between the parties hereto, and it shall not be necessary for the proof of this Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of this 30th day of October, 2012.

CITY OF PFLUGERVILLE, TEXAS
P.O. Box 589
Pflugerville, TX 78691

By: 
Name: BRANDON WADE
Title: CITY MANAGER

PROGRESSIVE WASTE SOLUTIONS OF TX, INC.
P.O. Box 141697
Austin, TX 78714

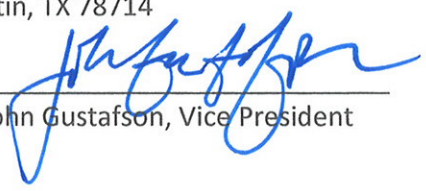
By: 
John Gustafson, Vice President

Exhibit C

City of Pflugerville Dumpster Services

Monthly Services	# of Containers	Container Size *	Weekly Service	Type of Service
City Hall	1	6	1	Trash
2609 E Pecan	1	4	1	Trash
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Heritage Park	1	8	1	Trash
Lake Pflugerville	1	8	2	Trash
Park - 400 Immanuel	1	2	1	Trash
Park - 515 City Park Rd	1	8	2	Trash
Park - 700 N Railroad	1	8	2	Trash
Parks - 901 Old Austin-Hutto Rd	1	8	2	Trash
Library	1	4	1	Trash
Police	1	6	1	Trash
Public Works - 1600 Water Brook	1	6	1	Trash
Recycle Center	1	8	1	Trash
Recycle Center (OCC)	1	8	3	Recycle
Water Treatment Plant - 17716 Weis Ln	2	6	1	Trash
Wells Point Park - 800 S Heathewilde	1	8	1	Trash
Windermere Park	1	8	2	Trash

*Numeric number in the "Container Size" column is referencing the cubic yards of a container.