

NEW HANOVER COUNTY
Environmental Management Dept.
3002 U.S. Highway 421 North

Kim Roane, Business Officer
ph: 910-798-4402
fax: 910-798-4408

Wilmington, NC 28401

Email: kroane@nhcgov.com

BID SPECIFICATIONS

RFB #18-0236

**EMERGENCY HEAVY EQUIPMENT AND OPERATOR SERVICES
NEW HANOVER COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT / LANDFILL
5210 U.S. Highway 421 North (NHC Landfill)
Wilmington, NC 28401**

Request for Bids

Section 1: Advertisement

New Hanover County (NHC) is accepting bids for Emergency Heavy Equipment and Operator Services services performed at the NHC Landfill site. The NHC Landfill facility located at 5210 U.S. Highway 421 North, Wilmington, NC 28401.

Sealed proposals addressed to Kim Roane, Business Officer, 3002 U.S. Highway 421 North, Wilmington, North Carolina, 28401 and marked "**RFB # 18-0236 Emergency Heavy Equipment and Operator Services**" will be accepted until **5:00 p.m. EST Monday, January 8, 2018**.

Instructions for submitting bids and complete requirements and information may be obtained by contacting Kim Roane, Business Officer: kroane@nhcgov.com. New Hanover County reserves the right to accept or reject any or all bids and to make the award which will be in the best interest of the County.

Section 2: Instructions and General Conditions

2.1 Schedule

Thursday, December 21, 2017	RFB issued and advertised.
Thursday, December 28, 2017 – Tuesday, January 2, 2018 by appointment	Field Site Visits: NHC Landfill Administrative Office; 5210 US Highway 421 N., Wilmington, NC 28401. Call Sam Hawes, (910) 798-4454 to schedule an appointment to visit the site. Field Site Visits are highly recommended.
Wednesday, January 3, 2018, 5:00 p.m.	Deadline for questions. All questions must be submitted in writing to Kim Roane, Business Officer (kroane@nhcgov.com).
Friday, January 5, 2018, 5:00 p.m.	Questions will be answered via written addendum.
Monday, January 8, 2018, 5:00 p.m.	Deadline for receipt of bids. Bids must be received via delivery to NHC Environmental Management, Kim Roane, Business Officer, 3002 US Highway 421 N., Wilmington, NC 28401.

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2.2 Bidder Instructions

- 2.2.1** Proposals shall be submitted as a document set, containing one (1) original, one (1) hard copy and one (1) electronic copy on either a CD or a flash drive.

Proposals must be submitted in a sealed envelope properly marked “**RFB #18-0236 Emergency Heavy Equipment and Operator Services**” and addressed to the County as follows:

New Hanover County
Environmental Management
Attn: Kim Roane, Business Officer
3002 U.S. Highway 421 North
Wilmington, NC 28401

Completion of Bid Form (Price Sheet): Bidders are expected to examine the specifications herein, the schedule and all instructions. Failure to do so will be at the bidder’s risk. Each bidder shall furnish the information required on the price sheet. Bids **must** be submitted on the price sheet contained in this bid package. Bids submitted that are not on the attached price sheet may be rejected. **Bids not signed may be rejected.**

Bidders shall complete bid pricing to complete the work, showing the pricing per mow and on an annual basis. Bid pricing shall be clearly stated on the required price sheet/bid form.

All prices and notations shall be written in ink or typed. Discrepancies between words and numerals will be resolved in favor of words.

Changes or corrections made on the bid **must** be initialed by the individual signing the bid. No corrections will be permitted once bids have been opened.

No telephone, electronic or facsimile proposals will be considered. Proposals received after the time and date for closing will not be considered.

2.2.2 Pre-Bid Site Visits

Pre-Bid Site Visits are highly recommended. Appointments for field visits are required and may be made by calling Sam Hawes, Landfill Manager, at (910) 798-4454. Field Site Visits will be conducted at the NHC Landfill, located at 5210 U.S. HWY. 421 N, Wilmington, NC. The site visits are recommended to assure all bidders fully understand the project, project area limits, and project specifics prior to submitting a bid.

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- 2.2.3** The deadline for receipt of bids will be **Monday, January 8, 2018 at 5:00 p.m. EST**. Bids must be delivered to: New Hanover County Department of Environmental Management, attn: Kim Roane, Business Officer, 3002 U.S. Hwy 421 N., Wilmington, NC 28401. Any bids received after the scheduled deadline will not be accepted. Bids may **not** be submitted via email or fax. There will not be a public bid opening.
- 2.2.4** After the bid issue date, all questions and responses between the County and prospective bidders regarding this bid request shall be in writing. Any inquires, requests for interpretation, technical questions, clarification, or additional information shall be directed to Kim Roane, Business Officer, via email: kroane@nhcgov.com. Questions and responses affecting the specifications of the bid will be provided by issuance of an Addendum. **All questions shall be received no later than 5:00 P.M., EST, Wednesday, January 3, 2018.**
- 2.2.5** New Hanover County reserves the right to allow or disallow minor deviations or technicalities should the County deem it to be in the best interest of the County. New Hanover County shall be the sole judge of what is to be considered a minor deviation or technicality.
- 2.2.6** Once an award is made, all proposals become public record and will be disclosed upon request. According to General Statutes 132 - 1.2, trade secrets contained in a bid may be kept confidential if the bidder, at the time the bid is submitted, designates the secret and requests that it be kept confidential. This right of privacy will be construed as narrowly as possible to protect the interests of the vendor while attempting to maximize the availability of information to the public.
- 2.2.7** Bidders may withdraw or withdraw and resubmit their bid at any time prior to the closing time for receipt of bids. No bid may be withdrawn after the scheduled closing time for receipt of bids and as such shall constitute a firm offer that is binding for a period of ninety (90) days.
- 2.2.8** The award will be made to the responsible bidder whose proposal is determined to be the most advantageous to the County. Although price will be considered, it will not be the sole determining factor.
- 2.2.9** Bids must be signed by an authorized individual of the firm(s). Bids that are not signed will be rejected.
- 2.2.10** The County reserves the following rights, which may be exercised at its sole discretion:
- to reject any or all bids or any part thereof, or to accept any bid, or any part thereof;
 - to supplement, amend, substitute or otherwise modify this bid at any time;

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- to cancel this bid with or without the substitution of another bid;
 - to take any action affecting this bid, this bid process, or the services or facilities subject to this bid that would be in the best interests of the County;
 - to issue additional requests for information;
 - to require one or more bidders to supplement, clarify or provide additional information in order for the County to evaluate the bids submitted;
 - to conduct investigations with respect to the qualifications and experience of each bidder;
 - to waive any defect or irregularity in any bid received;
 - to reject any or all bids;
 - to award all, none, or any part of the items that is in the best interest of the County, with one or more of the bidders responding, which may be done with or without re-solicitation;
 - to enter into any agreement deemed by the County to be in the best interest of the County, with one or more of the bidders responding.

2.2.11 The successful vendor is expected to enter into a contract with the County.

2.2.12 Unless specifically stated to the contrary, any manufacturer's names, trade names, brand names or catalog numbers used in the specifications of the Request for Bid are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any bidder and is included in order to advise the potential bidder of the requirements for the County. Any offer which proposes quality, design, or performance, will be considered.

2.2.13 Any person, firm(s), corporation or association submitting a proposal shall be deemed to have read and understood all the terms, conditions and requirements in the specifications and/or scope of work.

2.2.14 All proposals and accompanying documentation will become the property of New Hanover County at the time the proposals are opened and as such will not be returned to the bidder.

2.2.15 The County does pay sales tax, but is exempt from and will not pay Federal Excise Taxes or Transportation Taxes. Contractors will be required to submit a sales tax report with each pay request.

2.2.16 If the Vendor is required to charge North Carolina sales tax on bidder's sales, bidder shall not include it as part of the bid price. The County will pay North Carolina sales tax over and above bid prices when invoiced.

2.2.17 The bidder's products, service and facilities shall be in full compliance with any and all applicable state, federal, local, environmental and safety laws, regulations, ordinances and standards or any standards adopted by nationally

recognized testing facilities regardless of whether or not they are referred to in the bid documents.

2.2.18 E-Verify Requirements

Pursuant to N.C.G.S 147-33.95(g), New Hanover County shall not enter into a contract unless the Bidder and each of its sub-contractors comply with the E-Verify requirements of N.C.G. S. Chapter 64, Article 2. Bidders are directed to review the foregoing laws.

2.2.19 Failure to comply with these provisions or any other provisions of the General Statutes of North Carolina will result in rejection of bid.

2.2.20 Insurance

Before commencing any work and prior to contract execution, the CONTRACTOR shall procure insurance in the contractor's name and maintain all insurance policies for the duration of the contract of the types and in the amounts listed in the attached DRAFT CONTRACT. A certificate of insurance shall be provided to the County by the Contractor once the bid has been awarded.

2.2.21 The successful bidder will be a contractor familiar with this type of work with the necessary equipment and personnel to perform the work within the required time.

2.2.22 Costs incurred by prospective bidders in the preparation of the response to this Request for Bid are the responsibility of the responding bidder and will not be reimbursed by the County.

2.2.23 Responsibility of Compliance with Legal Requirements

The bidder's products, service and facilities shall be in full compliance with any and all applicable state, federal, local, environmental and safety laws, regulations, ordinances and standards or any standards adopted by nationally recognized testing facilities regardless of whether or not they are referred to in the bid documents.

2.3 References

The Contractor shall provide at least three (3) references of work completed of a similar nature (mowing and vegetation control of a large area). Contact information shall include company name, company address, contact name, contact phone number and contact email address.

2.4 Term and Time of Completion

The contract will be issued for annual services for a two (2) year term, with the possibility of two (2) additional one (1) year extensions if agreed upon in writing by the County.

2.5 Equal Opportunity

The non-discrimination clause contained in Section 202 (Federal) Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor, are incorporated herein. The CONTRACTORS agree not to discriminate against any employees or applicant for employment because of physical or mental handicap in regard to any position for which the employees or applicant is qualified. The CONTRACTOR agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices.

2.6 Minority Participation

Pursuant to N.C.G.S. 143-48, 143-128.4 and Executive Order #13, New Hanover County invites and encourages participation in this Request for Proposals by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. Additional information may be found at www.doa.nc.gov/hub.

Section 3: Contract draft

3.1 The **Draft** Contract is attached for review.

Section 4: Scope of Work (also referred to as Contract "Exhibit A")

SCOPE OF WORK

4.0 GENERAL

4.01 The CONTRACTOR shall comply with all applicable Federal, State and Local codes, ordinances and requirements of all agencies having jurisdiction. The CONTRACTOR will be responsible for obtaining all necessary permits and licenses to complete the scope of work.

4.02 CONTRACTOR Safety Requirements

4.02.1 CONTRACTOR shall comply with all local, state and federal safety rules and regulations and shall sign and return NHC Environmental Management Contractor Compliance Requirements document (attached).

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- 4.02.2** The CONTRACTOR shall be solely responsible for maintaining safety at all work sites. The CONTRACTOR shall take all reasonable steps to ensure safety for both workers and visitors to include traffic control.
- 4.02.3** The CONTRACTOR shall comply with all OSHA requirements including, but not limited to, notices and training.

4.1 Exhibit "A" Scope

Exhibit "A"
SCOPE OF SERVICES

EMERGENCY HEAVY EQUIPMENT AND OPERATOR SERVICES

- Services shall be provided upon request of the New Hanover County Landfill on an as-needed basis in response to extreme weather events, leachate breakouts, and specialty projects including proper cover of the exterior landfill slopes.
- Contractor shall provide, upon request, the following equipment and a qualified equipment operator, within 48 hours of notice:
 - Excavators (similar in size to a Caterpillar 320C unit) at a rate of \$____/hour; \$____/day; \$____/week.
 - Mini-Excavator for storm water ditch digging (similar in size to a Caterpillar 304 unit) at a rate of \$____/hour; \$____/day; \$____/week.
 - Bulldozers (similar in size to a Caterpillar D5 or D6 unit) at a rate of \$____/hour; \$____/day; \$____/week.
 - Loaders (similar in size to a Caterpillar 924 unit) at a rate of \$____/hour; \$____/day; \$____/week.
 - Articulated dump truck (similar in size to a Caterpillar 725 unit) \$____/hour.
 - Tractor with bush hog mower attachment at a rate of \$____/hour; \$____/day; \$____/week
- All fuel, oils and maintenance & repair costs for contractor-owned equipment to be provided by the contractor.
- Contractor is required to provide all mobilization and demobilization costs to transport the contractor-owned equipment to and from the site.
- Equipment breakdowns on the County site shall be corrected at the discretion of the County Landfill Manager with deployment of another unit of similar size and function.
- Contractor shall provide an operator for County – owned equipment (including articulated dump truck) at the request of the County, at a rate of \$____/hour. County shall provide all fuel, oils and maintenance & repair costs for County-owned equipment.

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Contractor Compliance Requirements

Introduction

The safety and health of all contractors, customers, and employees of the New Hanover County Department of Environmental Management is of primary importance. As a result, the prevention

of occupationally induced injuries and illnesses will be given precedence over operating productivity whenever necessary.

Our goal is to maintain a safety and health program conforming to all applicable OSHA standards and to lead in safety program management within our industry. To be successful will require contractor cooperation in all safety and health matters.

As a contractor you will be required, as part of your contract, to take an active role in the Department of Environmental Management safety and health program. The following contractor safety and health requirements, when adhered to, will ensure safety for contractors, customers, and County employees. Additionally, potential damage to equipment and property will be avoided. It is impossible to document all possible situations or to provide precise guidance for every contingency a contractor may encounter in the course of their work. However, adherence to the rules as written and the desire to apply safe work practices will result in the highest level of safety.

General Requirements

1. All contractor employees shall abide by the Department of Environmental Management safety and health rules and regulations at all times. The DEM Safety Manual is available for copy or review in each of the Department's offices.
2. The contractor and all contracted employees are required to follow the procedures for signing in and out. Procedures may differ depending on the section of the department the contractor is working in; they will be explained fully before the work begins.
3. The contractor shall have a competent individual in charge at the job site to supervise the job, conduct an adequate accident prevention program, and ensure compliance to OSHA and DEM rules.
4. All accidents or injuries shall be reported immediately to the DEM Project Manager or Safety Manager.
5. Contractor employees are not allowed to enter areas other than the work site, unless it is required for the performance of their job.
6. The contractor shall inform the Project Manager of any known hazardous conditions that exist, due to the contract work being done, in areas where Departmental employees may be exposed to the known hazards.
7. The contractor shall provide Material Safety Data Sheets for all containers of hazardous substances brought onto DEM property.
8. The contractor shall sign the "Contractor Hold Harmless" waiver form in order to use any Department equipment.
9. Periodic job site inspections will be conducted by the DEM Project Manager or Safety Manager to ensure that the job is proceeding safely in accordance with safety rules.
10. Smoking is prohibited on all construction projects at the Landfill.
11. Violation of these rules is grounds for immediate termination of contract work.

Standards of Conduct

The Department of Environmental Management has established standards to ensure the smooth, safe, and efficient operations of the Department. Violation of these standards is considered serious and may lead to termination of the contract. The following are prohibited:

1. Willful damage to any Departmental property, customer property, or the property of Department employees.
2. Possession, use, or distribution of alcohol, narcotics, or illegal drugs on Department property.
3. Possession of firearms, ammunition, concealed weapons, or explosives (unless properly authorized).
4. Abusive or threatening language, harassment, disrespectful behavior, workplace violence, or interfering with the work of Department employees.
5. Theft or attempted theft from the Department or Department employees.
6. Refusal to perform contracted work or refusal to obey instructions.
7. Sleeping on the job.
8. Negligence or conduct which could result in injury or damage to property.
9. Falsification of documents.

Contractor Safety Training

Please place a check by each of the following categories in which one or more of your employees has been trained. It is understood that not all contractors will have employees who are trained in all of the areas listed.

- Personal Protective Equipment
- First Aid and CPR
- Lockout/Tagout
- Confined Space Entry
- Respiratory Protection
- Hazardous Communication
- Material Safety Data Sheets
- Fire Prevention and Protection
- Fall Protection
- Scaffolding
- Heavy Equipment Training/Certification (includes bulldozer, loader, forklift, excavator, grader, roller, back-hoe, bobcat)
- Welding, Cutting, and Brazing
- Electrical Safety

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___ Trenching/Excavation
___ Other _____
___ Other _____

* If the contracting company has ten (10) or more employees, they will be required to present OSHA 300 Logs, at a minimum for the past three calendar years, along with their bid. The Department of Environmental Management reserves the right to ask for any training records from the categories that were checked above. The County reserves the right to reject the bid of any firm that cannot document proper safety training as it relates to conducting the work included in the contract.

Contractor Agreement to Comply

I, _____, a representative of _____ do hereby acknowledge that my company has received a copy of the guidelines governing contract work being performed on New Hanover County Department of Environmental Management property. It is agreed that as part of the contract my company and its employees will comply with these guidelines and all the written programs which apply to the work being performed.

Signed _____
(Contractor)

Date _____

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**NEW HANOVER COUNTY RFB#18-0236
EMERGENCY HEAVY EQUIPMENT AND OPERATOR SERVICES
Price Sheet/Bid Form**

TO: Kim Roane, Business Officer
New Hanover County
3002 Hwy. 421 North
Wilmington, NC 28401

DATE: _____ CONTRACTOR: _____

PHONE: _____ ADDRESS: _____

The undersigned, having carefully examined the Instructions to Bidders, Landfill Mowing and Vegetation Management Services, dated November 21, 2017, including the following addenda (if issued);

ADDENDUM # _____ DATED: _____

ADDENDUM # _____ DATED: _____

As well as the premises and conditions affecting the work, proposes to furnish all services, labor, materials and equipment called for to complete the project in accordance with the scope of work described in RFB#18-0236

- **BID PRICE:** Contractor shall provide, upon request, the following equipment and a qualified equipment operator, within 48 hours of notice:
 - Excavators (similar in size to a Caterpillar 320C unit) at a rate of \$_____/hour; \$_____/day; \$_____/week.
 - Mini-Excavator for storm water ditch digging (similar in size to a Caterpillar 304 unit) at a rate of \$_____/hour; \$_____/day; \$_____/week.
 - Bulldozers (similar in size to a Caterpillar D5 or D6 unit) at a rate of \$_____/hour; \$_____/day; \$_____/week.
 - Loaders (similar in size to a Caterpillar 924 unit) at a rate of \$_____/hour; \$_____/day; \$_____/week.
 - Articulated dump truck (similar in size to a Caterpillar 725 unit) \$_____/hour.
 - Tractor with bush hog mower attachment at a rate of \$_____/hour; \$_____/day; \$_____/week

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- All fuel, oils and maintenance & repair costs for contractor-owned equipment to be provided by the contractor.
 - Contractor is required to provide all mobilization and demobilization costs to transport the contractor-owned equipment to and from the site.
 - Equipment breakdowns on the County site shall be corrected at the discretion of the County Landfill Manager with deployment of another unit of similar size and function.
 - Contractor shall provide an operator for County – owned equipment (including articulated dump truck) at the request of the County, at a rate of \$_____/hour. County shall provide all fuel, oils and maintenance & repair costs for County-owned equipment.

DESCRIPTION OF EQUIPMENT TO BE USED:

Signature

Title

State of Incorporation

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**NEW HANOVER COUNTY
RFB #18-0236
EMERGENCY HEAVY EQUIPMENT AND OPERATOR SERVICES
STATEMENT OF ASSURANCES AND COMPLIANCE**

The undersigned, as bidder certifies that the General Conditions and Instructions to Bidders, the Scope of Work and the Price Sheet/Bid Form found in the bidding documents have been read and understood.

The bidder hereby provides assurance that the firm represented in this bid, as indicated below:

- 1) Will comply with all requirements, stipulations, terms, and conditions as stated in the bid document:
- 2) Currently complies with all applicable State and Federal Laws:
- 3) Is not guilty of collusion with the vendors possibly interested in this bid or in determining prices to be submitted: and
- 4) Such agent as indicated below is officially authorized to represent the firm in whose name this bid is submitted.

_____ Name of Firm	_____ Name of Firm Representative
_____ Address of Firm	_____ Title
_____ Telephone Number	
_____ Date	
_____ State of Incorporation	

REFERENCES

1. Company Name _____
Contact Name: _____
Phone: _____
Mobile Phone: _____
Dates of Service: _____
Description of Service: _____

2. Company Name _____
Contact Name: _____
Phone: _____
Mobile Phone: _____
Dates of Service: _____
Description of Service: _____

3. Company Name _____
Contact Name: _____
Phone: _____
Mobile Phone: _____
Dates of Service: _____
Description of Service: _____

NORTH CAROLINA

AGREEMENT

NEW HANOVER COUNTY

THIS CONTRACT made and entered into this _____ day of _____ 2017 by and between **NEW HANOVER COUNTY**, a political subdivision of the State of North Carolina, hereinafter referred to as "County"; and _____, a _____, hereinafter referred to as "Contractor."

WITNESSETH:

That Contractor, for the consideration hereinafter fully set out, hereby agrees with County as follows:

1. Scope of Services. Contractor shall provide emergency heavy equipment operator services as more fully described in the "Scope of Work" attached hereto as Exhibit "A" and incorporated herein by reference.

2. Time of Performance. Contractor shall commence services on Notice to Proceed. The term of the Contract shall run through midnight on _____. The Agreement may be renewed for an additional two (2) one (1) year terms upon written notice by County.

3. Payment. County hereby agrees to pay for the cost of the Contract an amount not to exceed _____ (\$_____) Dollars per year. Payment is contingent upon a final County inspection and acceptance of services.

4. Extra Work. County and Contractor shall negotiate and agree upon the value of any extra work or services prior to the issuance of a County Change Order or Renewal/Amendment (CRA) form covering said extra work or services. Such Change Order or CRA shall set forth the corresponding adjustment, if any, to the Contract Price and Contract Time.

5. Indemnity. Contractor shall indemnify and hold County, its officers, officials, agents, and employees, harmless against any and all claims, demands, causes of action, or other liability, including attorney fees, for any property damages, personal injuries or death arising out of, relating to, or resulting from the negligence, willful act, or

omission of Contractor, its agents, employees and subcontractors in the performance of work or services.

6. Insurance. Before commencing any work or services, Contractor shall procure insurance in Contractor's name and maintain all insurance policies for the duration of the Contract of the types and in the amounts listed in this Contract. The insurance shall provide coverage against claims for injuries to persons or damages to property which may arise from operations or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees, or subcontractors, whether such operations by itself or anyone directly or indirectly employed by it.

7. Minimum Scope and Limits of Insurance

7.1. Commercial General Liability

7.1.1. Contractor shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability (CUL) insurance with a total limit of not less than \$1,000,000 for each occurrence for bodily injury and property damage. If such CGL insurance contains a general aggregate limit, it shall apply separately to this work or services, or the general aggregate shall be twice the required limit.

7.1.2. CGL insurance shall be written on Insurance Services Office (ISO) "occurrence" form CG 00 01 covering CGL or its equivalent and shall cover the liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract, including the tort liability of another assumed in a business contract.

7.1.3. County, its officers, officials, agents, and employees are to be covered as additional insureds under the CGL by endorsement CG 20 10 and CG 20 37 or an endorsement providing equivalent coverage as respects to liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor; and under the CUL, if any. The coverage shall contain no special limitations on the scope of protection afforded to County, its officers, officials, agents, and employees.

7.1.4. Contractor's CGL insurance shall be primary as respects County, its officers, officials, agents, and employees. Any other insurance or

self-insurance maintained by County, its officers, officials, agents, and employees shall be in excess of and shall not contribute to Contractor's insurance.

7.1.5 Contractor shall maintain CGL and, if necessary Commercial Umbrella Liability insurance, both applicable to liability arising out of Contractor's completed operations, with a limit of not less than \$2,000,000 each occurrence for at least three (3) years following substantial completion of the services.

7.2. Workers' Compensation and Employer's Liability

7.2.1. Contractor shall maintain Workers' Compensation as required by the general statutes of the State of North Carolina and Employer's Liability Insurance.

7.2.2. Employer's Liability, and if necessary, CUL insurance shall not be less than \$1,000,000 for each accident for bodily injury by accident, \$1,000,000 for each employee for bodily injury by disease, and \$1,000,000 policy limit.

7.2.3. The insurer shall agree to waive all rights of subrogation against County, its officers, officials, agents, and employees for losses arising from work or services performed by Contractor for County.

7.3. Business Auto Liability

7.3.1. Contractor shall maintain applicable Business or Personal Auto Liability and, if necessary, CUL insurance with a limit of not less than \$1,000,000 each accident. Personal auto insurance may be accepted in lieu of Business Auto Insurance.

7.3.2. Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos used in the performance of work or services.

7.3.3. Business Auto coverage shall be written on ISO form CA 00 01, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide Contractual liability coverage equivalent to that provided in ISO form CA 00 01.

7.3.4. Contractor's Business Auto Liability insurance shall be primary as respects County, its officers, officials, agents, and employees. Any other

insurance or self-insurance maintained by County, its officers, officials, agents, and employees shall be in excess of and shall not contribute to Contractor's insurance.

7.4. Deductibles and Self-Insured Retentions

7.4.1. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, agents, or employees; Contractor shall procure a bond guaranteeing payment of deductibles or self-insured retentions.

7.4.2. Contractor shall be solely responsible for the payment of all deductibles to which all policies are subject, regardless of whether County is an insured under the policy.

7.5. Miscellaneous Insurance Provisions.

7.5.1. Any failure to comply with reporting provisions of the policies listed in this Contract shall not affect coverage provided to County, its officers, officials, agents, and employees.

7.5.2. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days prior written notice has been given to County, 230 Government Center Drive, Ste. #125, Wilmington, NC 28403.

7.5.3. If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

7.6. Acceptability of Insurers. Insurance is to be placed with insurers licensed to do business in the State of North Carolina with an A.M. Best's rating of no less than A VII unless County has granted a specific exemption.

7.7. Evidence of Insurance

7.7.1. Contractor shall furnish County with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements prior to commencing the work or services, and thereafter upon renewal or replacement of each certified coverage until all operations under this Contract are deemed complete.

7.7.2. Evidence of additional insured status shall be noted on the certificate of insurance as per requirements in this Contract.

7.7.3. With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to County with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the period for which such insurance must be maintained.

7.8. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. CGL coverage shall include independent contractors' coverage, and Contractor shall be responsible for assuring that all subcontractors are properly insured.

7.9. Conditions

7.9.1. County may, at its discretion and with approval of Risk Management and the Finance Department, accept letters of credit or custodial accounts in lieu of specific insurance requirements.

7.9.2. Contractor shall warrant that the insurance contributing to the satisfaction of insurance requirements in this Contract and shall not be canceled, terminated, or modified by Contractor without prior written approval of County.

7.9.3. Contractor shall promptly notify New Hanover County Environmental Management and New Hanover County Risk Management at (910) 798-7497 of any accidents arising in the course of operations under the Contract causing bodily injury or property damage.

7.9.4. County reserves the right to obtain complete, certified copies of all required insurance policies.

7.9.5. Failure of County to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of County to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

7.9.6. County does not represent that coverage and limits will be adequate to protect Contractor and such coverage and limits shall not be deemed as

a limitation of Contractor's liability under the indemnities granted to County in this Contract.

7.9.7. If Contractor fails to maintain the insurance as set forth herein, County shall have the right to purchase said insurance at Contractor's expense. Contractor agrees to reimburse County for all expenses incurred for such purchase.

7.9.8. Contractor or its agent may apply to County for approval of higher deductibles based on financial capacity and quality of the carrier affording coverage.

7.9.9. County shall have the right to prohibit Contractor or any subcontractor from performing work or services and may withhold payment until required certificates has been received and approved by County.

8. Independent Contractor. The parties mutually agree that the Contractor is an independent contractor and not an agent of the County, and as such, the Contractor shall not be entitled to any County employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen's compensation, or pension and retirement benefits.

9. Default and Termination. If Contractor fails to prosecute the work or services with such diligence as will insure its completion within the Contract time, or if Contractor breaches any of the terms or conditions contained in this Contract and fails to cure said breach within two (2) days of County's mailing of Notice of Default, or otherwise fails to perform the work or services hereunder to the County's reasonable satisfaction, County may terminate this Contract forthwith. Upon termination, County may, without prejudice to an action for damages or any other remedy, take the prosecution of the work or services out of the hands of Contractor. County may enter into another Contract for the completion of the Contract, or use such other methods as may be required for the completion of the Contract. County may deduct all costs of completing the Contract from any monies due or which may become due to Contractor. In the event this Contract is terminated prior to completion of the services by the Contractor, the Contractor shall be paid for work or services performed to the date of termination. In no event will the amount due Contractor in the event of termination exceed that amount set forth in this Contract.

Nothing contained herein shall prevent the County from pursuing any other remedy, which it may have against Contractor, including claims for damages.

10. Termination for Convenience. County may terminate this Contract for convenience at any time and without cause. Upon receipt of notice, Contractor shall immediately discontinue providing the work or service and, if applicable, the placing any orders for any materials, facilities, and supplies in connection with the performance of the work or services of this Contract.

11. Non-appropriation. All funds for payment by County under this Contract are subject to the availability of an annual appropriation of Commissioners for the services provided under the Contract, County will terminate the Contract, without termination charge or liability, on the last day of the then-current fiscal year or when the appropriation made for then-current year for the services/items covered by this Contract is spent, whichever occurs first. If at any time funds are not appropriated for the continuance of this Contract, cancellation shall be accepted by the Contractor on ten (10) business days' prior written notice, but failure to give such notice shall be of no effect and County shall not be obligated under this Contract beyond the date of termination.

12. Non-waiver of Rights. The parties mutually agree that either party's failure to insist upon the strict performance of any provision of this Contract or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this Contract.

13. Conflict of Interest. No paid employee of the County shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this Contract.

14. Subcontracts. The Contractor shall utilize no subcontractors for performing the work or services to be performed under this Contract without the prior written approval of the County.

15. Entire Contract. This Contract constitutes the entire understanding of the parties.

16. Binding Effect. This Contract shall be binding upon the parties hereto, and their heirs, successors, executors, administrators and assigns.

17. Severability. If any provision of this Contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.

18. Inclusive Terms. Use of the masculine herein shall include the feminine and neuter, and the singular shall include the plural.

19. Governing Law. All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina.

20. E-Verify Compliance. Pursuant to S.L. 2015-294, Contractor shall fully comply with the U.S. Department of Homeland Security employee legal status E-Verify requirements for itself and all its subcontractors. Violation of the provision, unless timely cured, shall constitute a breach of Contract.

21. Notices. All notices required hereunder to be sent to either party shall be sent to the following designated addresses, or to such other address or addresses as may hereafter be designated by either party by mailing of written notice of such change of address, by Certified Mail, Return Receipt Requested:

To County:
New Hanover County Environmental Management
Attention: Kim Roane
5210 U.S. Highway 421 N.
Wilmington, NC 28401

To Contractor:

22. Assignability. The parties hereto agree that this Contract is not transferable and shall not be assigned by either party without the written consent of the other party to this Contract.

23. Contract Under Seal. The parties hereto expressly agree to create a Contract under seal.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals, the day and year first above written and by authority duly given.

NEW HANOVER COUNTY

[SEAL]

County Manager

ATTEST:

Clerk to the Board

BY: _____ (Seal)
Member/Manager

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Approved as to form:

County Finance Officer

County Attorney

STATE OF NORTH CAROLINA

NEW HANOVER COUNTY

I, _____, a Notary Public of the State and County aforesaid, certify that Kymberleigh G. Crowell acknowledged that she is Clerk to the Board of Commissioners of New Hanover County, and that by authority duly given and as the act of the Board, the foregoing instrument was signed in its name by its _____ County Manager, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal, this _____ day of _____, 2017.

Notary Public

My commission expires: _____

STATE OF _____

_____ COUNTY

I, _____, a Notary Public in and for the State and County aforesaid, certify that _____, personally came before me this day and acknowledged that (s)he is Member/Manger of _____, a _____, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its Member/Manager.

WITNESS my hand and official seal, this ____ day of _____, 2017.

Notary Public

My commission expires: _____