NEW HANOVER COUNTY
REQUEST FOR BIDS
HURRICANE FLORENCE LANDFILL DEBRIS MANAGEMENT SERVICES
RFB # 19-0233

COUNTY COMMISSIONERS
WOODY WHITE, CHAIRMAN
SKIP WATKINS, VICE-CHAIRMAN
JONATHAN BARFIELD, JR.
PATRICIA KUSEK
ROB ZAPPLE
CHRIS COUDRIET, COUNTY MANAGER
NEW HANOVER COUNTY
REQUEST FOR BIDS
HURRICANE FLORENCE LANDFILL DEBRIS MANAGEMENT
RFB # 19-0233

Sealed bids addressed to Kim Roane, Business Officer, 3002 US Highway 421 North, Wilmington, NC 28401 and marked “RFB# 19-0233 HURRICANE FLORENCE LANDFILL DEBRIS MANAGEMENT SERVICES” will be accepted until 2:00 P.M. EST, Thursday, November 1, 2018.

New Hanover County (NHC) is accepting bids for the management of hurricane-generated vegetative debris (mulch) at the NHC Landfill facility located at 5210 U.S. Highway 421 North, Wilmington, NC 28401.

Site visits will be available from October 23-25, 2018 by appointment only and can be arranged by contacting Kim Roane, Business Officer by emailing kroane@nhcgov.com.

Instructions for submitting bids and complete requirements and information may be obtained by visiting the County’s website at https://www.nhcgov.com/business-nhc/bids or by contacting Kim Roane at 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.

Released: Friday, October 19, 2018
Section 2 – Instructions and General Conditions

2.1 – Schedule

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday, October 19, 2018</td>
<td>RFB issued.</td>
</tr>
<tr>
<td>October 23-25, 2018</td>
<td>Site visits by appointment (contact <a href="mailto:kroane@nhcgov.com">kroane@nhcgov.com</a>).</td>
</tr>
<tr>
<td>Friday, October 26, 2018</td>
<td>Deadline for questions. All questions must be submitted in writing to Kim Roane, Business Officer (<a href="mailto:kroane@nhcgov.com">kroane@nhcgov.com</a>).</td>
</tr>
<tr>
<td>Monday, October 29, 2018</td>
<td>Questions will be answered via written addendum.</td>
</tr>
<tr>
<td>Thursday, November 1, 2018, 2:00 p.m.</td>
<td>Deadline for receipt of SEALED bids.</td>
</tr>
</tbody>
</table>

2.2 – Preparation of Bid

2.2.1 Bidders are instructed to submit one (1) original, (1) copy, and one (1) electronic copy on CD or USB in a sealed envelope. Bids should be clearly marked “RFB # 19-0233– DISASTER RECOVERY SERVICES.”

2.2.2 The bid shall be submitted by 2:00 PM Thursday, November 1, 2018 and addressed to:

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

2.2.3 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 will be rejected. BIDS NOT SIGNED WILL BE DEEMED NONRESPONSIVE AND REJECTED.

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 in the bid must be initialed by the individual signing the bid. No corrections will be permitted once bids have been opened.

2.2.4 No telephone, electronic or facsimile bids will be considered. Bids received after the time and date for closing will not be considered.
2.3 – Site Visit
Bidders may request a site visit by emailing kroane@nhcgov.com. Site visits will be available by appointment only from October 23-25, 2018. Site visits are not mandatory but highly recommended.

2.4 – Questions
Questions concerning the specifications in this Request for Bids (RFB) should be directed to the Kim Roane, Business Officer at kroane@nhcgov.com. Questions will be received until Friday, October 26, 2018 at 2:00 pm. An addendum summarizing all questions and answers will be posted to the County’s website. Bidders who have notified the County of their intent to submit a bid along with the email address will be sent the addendum upon posting.

2.5 – Communication
Bidders may not have communications, verbal or otherwise, concerning this RFB with any personnel or boards from New Hanover County, other than the person listed in this section which is Kim Roane, Business Officer email kroane@nhcgov.com. If any vendor attempts any unauthorized communication, the bid may be rejected.

2.6 – Intent to Submit
All Bidders who intend to submit a bid on this project should send an email to kroane@nhcgov.com including pertinent contact information. This will ensure that you receive any addenda issued for this RFB; if applicable.

2.7 - Cost of Preparation of Response
Costs incurred by prospective Bidders in the preparation of the response to this Request for Bids are the responsibility of the Bidder and will not be reimbursed by The County.

2.8 – Bid Opening
The public bid opening will be Thursday, November 1, 2018 at 2:00 p.m. in the conference room of the New Hanover County Department of Environmental Management, 3002 U.S. Hwy 421 N., Wilmington, NC 28401.

2.9 – Award
Award “shall be made to the lowest responsive responsible bidder taking into consideration quality, performance, and the time specified in the bid for the performance of the contract.”

The County may also consider other factors such as past performance, financial stability, and availability of equipment in the consideration of award.

2.10 - Execution of Agreement
The successful Bidder will be required to enter into a formal agreement that is consistent with the bid requirements outlined within. The successful Bidder to whom the Contract is awarded by the County shall within 15 days after notice of award and receipt of Agreement from the County, sign and deliver to the County all required copies of said Agreement.
2.11 – Ownership of Documents
All bids and accompanying documentation will become the property of New Hanover County at the time the bids are opened and as such will not be returned to the bidder.

2.12 - Trade Secret Confidentiality
Upon receipt of your bid by New Hanover County, your bid is considered a public record except for material which qualifies as "trade secret" under N.C. General Statute 132-1.2. After opening, your bid will be provided to County staff and others who participate in the evaluation process, and to members of the general public who submit public records requests.

To properly designate material as trade secret under these circumstances, each Bidder must take the following precautions: (a) any trade secrets submitted by a Bidder must be submitted in a separate, sealed envelope marked "Trade Secret - Confidential and Proprietary Information - Do Not Disclose Except for the Purpose of Evaluating This Bid," and (b) the same trade secret/confidentiality designation must be stamped on each page of the trade secret materials contained in the envelope.

Do not attempt to designate your entire Bid as a trade secret, and do not attempt to designate pricing information as a trade secret. Doing so will result in your Bid being disqualified.

In submitting a Bid, each Bidder agrees that the County may reveal any trade secret materials contained in such response to all County staff and County officials involved in the selection process, and to any outside consultant or other third parties who assist the County in the selection process. Furthermore, each Bidder agrees to indemnify and hold harmless the County and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material, which the Bidder has designated as a trade secret.

2.13 - Withdrawal of Bids
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 for a period of ninety (90) days.

2.14 - 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 Bidder agrees 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 Bidder 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.

Pursuant to GS 143-48, New Hanover County encourages small, minority, physically handicapped, and women firms to submit bids in response to this RFB.

2.15- Indemnity
The successful Bidder shall indemnify and hold the County, its agents and employees, harmless against any and all claims, demands, causes of action, or other liability, including attorney fees, on account of personal injuries or death or on account of property damages arising out of or relating to the work to be performed by the Successful Bidder hereunder, resulting from the negligence of or the willful act or omission of the Bidder, his agents, employees and subcontractors.

2.16 – E-Verify
Pursuant to Session Law 2013-418, Contractor shall fully comply with the U.S. Department of Homeland Security employee legal status E-Verify requirements for itself and all its subcontractors. County requires an affidavit attesting to Contractor’s compliance. Violation of the provision, unless timely cured, shall constitute a breach of contract.

2.17 - Insurance
Before commencing any work, the Bidder shall procure insurance in the Bidder’s name and maintain all insurance policies for the duration of the contract of the types and in the amounts listed in this Agreement. 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 the Bidder, his agents, representatives, employees, or subcontractors, whether such operations are done by himself/herself or anyone directly or indirectly employed by him/her.

Limits of insurance required are detailed in the attached Draft Contract.

2.18 - Addendum
The bid package constitutes the entire set of instructions to the bidder. The County shall not be responsible for any other instructions, verbal or written, made by anyone. Any changes to the specifications will be in the form of an Addendum which will be sent to all known Bidders who are listed with the Finance Office and posted on the County’s website.

You may visit our website at http://www.nhcgov.com/Finance/Pages/CurrentBids.aspx, or email kroane@nhcgov.com to check for the issuance of any addenda before submitting your bid.

2.19 - Compliance with Bid Requirements
Failure to comply with these provisions or any other provisions of the General Statutes of North Carolina will result in rejection of bid/bid.
2.20- Successful Bidder
The Bidder who is not currently set up as a vendor in The County’s vendor file will be required to submit a completed Vendor Application, W-9 and EFT form in order to be entered into the County’s vendor database.

2.21 – Federal Uniform Guidance
If the source of funds for this contract is federal funds, the following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable): Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland “Anti-Kickback” Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2CFR § 200.324). Refer to the Attached Draft Contract for complete Details.

2.22 – Estimated Activation Period and Quantities
The County makes no guarantee as to the number of days, if any, the Bidder will be activated to manage the vegetative debris (mulch) at the Landfill. The Bidder shall be prepared to provide up to two (2) experienced heavy equipment operators and up to two (2) D6 or equivalent bulldozers. The Environmental Management Director will determine the time and quantity of work required as the hurricane recovery proceeds.

2.23– Term and Time/Completion Schedule
2.23.1 This contract will be for the period through December 31, 2018, although it is anticipated the work will commence immediately upon issuance of a purchase order or notice to proceed, and will be completed as soon as possible thereafter.

2.23.2 The CONTRACTOR will begin work within two (2) days of notice to proceed. Completion will be at the discretion of the Director of Environmental Management.

2.24– Contract Compliance Requirements
Contractor shall sign and return NHC Environmental Management Contractor Compliance Requirements document (attached to the contract).

2.25 - Right to Reject Bids
New Hanover County reserves the right to accept or reject any or all bids and to make the award which will be most advantageous to the County.

2.26 – Draft Contract
A draft contract is attached for review by the Bidder.
Section 3 – Scope of Services

1.0 GENERAL

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

1.02 Performance: The quality of workmanship concerning the services provided for Hurricane Florence Landfill Debris Management must reflect professional work and conduct.

2.0 SCOPE OF SERVICES

Hurricane Florence Landfill Debris Management

Scope of Services

- Provide up to two (2) experienced heavy equipment operators and up to two (2) D6 or equivalent bulldozers, for the management of hurricane – generated vegetative mulch disposal at the New Hanover County Landfill.

- Operators will be responsible for the daily management of mulch being disposed of at the New Hanover County Landfill. Management will include grading and leveling the mulch across the site to build up a base (approximately 3 feet thick) suitable for trucks to drive on as well as building parallel windrows of mulch that are approximately ten (10) feet tall. Fire/driving lanes will be established between windrows to allow travel throughout the site. Undulating topography at the site will be filled to create a somewhat level surface. As a result, the base will be thicker in some areas where dips in the natural topography exist.

- Bids shall be based on $/day (fuel, equipment, labor) as we do not know ultimate project time span. The length of time the work will be required is unknown, but bidders should plan for a minimum of one (1) month of work and possibly more, depending upon need. The Environmental Management Director will determine the need as the debris management process proceeds.

- Work hours will be 6:30 am – 5:00 pm M-F and 6:30 am – 12:00 noon on Saturdays. Work performed beyond those hours will be at the contractor’s expense.

- Invoices are to be submitted weekly and must include documentation of labor and equipment time expended.
• BIDDER shall avoid all groundwater monitoring wells within the project site. Wells will be marked by County staff prior to the issuance of the purchase order or the notice to proceed.
• All Local, state and federal laws, including OSHA safety compliance, must be adhered to, and the contractor must sign the NHC Landfill Contractor Compliance agreement.

3.0 PRICE SCHEDULE

3.1 The contract will be for payment on a per day basis. Daily prices proposed by the bidder shall include anything necessary to complete the work including mobilization, insurance, labor, equipment, fuel, overhead, profit, and applicable taxes, if any. No minimum or maximum quantity is implied or inferred by this contract.

3.2 All bids must be submitted using the attached Price Sheet/Bid Form.

4.0 BIDDER SAFETY REQUIREMENTS

4.1 BIDDER 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 to the contract).

4.2 The BIDDER shall be solely responsible for maintaining safety at all work sites. The BIDDER shall take all reasonable steps to insure safety for both workers and visitors to include traffic control.

5.0 OTHER LAWS AND REGULATIONS

BIDDER will comply with any and all applicable federal, state and local standards, regulations, laws, OSHA and all health and safety regulations.
Section 4 – Bid Sheet

NEW HANOVER COUNTY
HURRICANE FLORENCE LANDFILL DEBRIS MANAGEMENT

Price Sheet/Bid Form

RFB # 19-0233

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

DATE: ____________________    CONTRACTOR: ____________________________

OFFICE PHONE: ________________    CELL PHONE: ___________________________

ADDRESS: ________________________________________________________________

EMAIL ADDRESS: ___________________________________________________________

UNIT PRICE BID: The undersigned, having carefully examined the Instructions to Bidders,
New Hanover County RFB # 19-0233– Hurricane Florence Landfill Debris Management Services,
and draft contract dated October 19, 2018, including the following addenda;

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
contract documents for the following unit price amounts.

Unit Price per bulldozer with operator $______/day (all inclusive – M-F 6:30 a.m.-5:00 p.m.)
$______/day (all inclusive – Saturday 6:30 a.m.-noon)

_________________________________    __________________________
Signature                        Title

_________________________________
State of Incorporation

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Section 5 – Statement of Assurances and Compliance

NEW HANOVER COUNTY
HURRICANE FLORENCE LANDFILL DEBRIS MANAGEMENT SERVICES
STATEMENT OF ASSURANCES AND COMPLIANCE

The undersigned, as bidder certifies that the General Conditions and Instructions to Bidders, the Draft Contract, 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

___________________________________________________________  
Title

___________________________________________________________
Address of Firm

___________________________________________________________
Telephone Number

___________________________________________________________
Date

___________________________________________________________
State of Incorporation
AGREEMENT

THIS CONTRACT made and entered into this _____ day of ______________________ 2018 by and between NEW HANOVER COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as "County"; and ________________________________, a North Carolina corporation, hereinafter referred to as "Contractor";

W I T N E S S E T H:

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

1. **Scope of Services.** Contractor shall provide debris management services at the New Hanover County Landfill as more fully described in “Scope of Work” attached hereto as Exhibit “A” and incorporated herein by reference.

2. **Time of Performance.** The term of this Agreement shall begin from receipt of Notice to Proceed and all work shall be completed by December 31, 2018.

3. **Payment.** County hereby agrees to pay for the cost of this Contract not to exceed a sum of ____________________________ ($_________) Dollars. Payment is contingent upon a final County inspection and acceptance of work or 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 each occurrence for bodily injury and property damage. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location 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 26 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.

7.2. **Worker’s Compensation and Employer’s Liability**
7.2.1 Contractor shall maintain Worker’s Compensation as required by the General Statutes of the State of North Carolina and Employer’s Liability Insurance.

7.2.2 The Employer’s Liability, and if necessary, CUL insurance shall not be less than $1,000,000 each accident for bodily injury by accident, $1,000,000 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 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 N.C.G.S. 143-133.3, 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. **Compliance with Federal Law.** If applicable, all federally funded projects, loans, grants, and sub grants whether funded in part or wholly, must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).

22. **Equal Opportunity.**

22.1 During the performance of this contract, Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

22.2 Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

22.3 Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
22.4 Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

22.5 Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

22.6 In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

22.7 Contractor will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

23. Contractor shall comply with the following additional federal provisions:

23.1 Davis Bacon Act and Copeland Anti-Kickback Act.

23.1.1 Contractor and its subcontractors agree to comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874; 40 U.S.C. § 3145) as supplemented in
Department of Labor regulations (29 C.F.R. Part 3). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

23.1.2 Contractor shall comply with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D. In accordance with the statute, Contractor must be pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must be pay wages not less than once a week.

23.1.3 A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

23.2. Contract Work Hours and Safety Standards Act

23.2.1 Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty hours in the work week.

23.2.2 Overtime: No contractor or subcontractors contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

23.2.3 Violation: liability for unpaid wages; liquidated damages: In the event of any violation of the provisions of this section, Contractor and
any subcontractors responsible therefore shall be liable to any affected employee for his unpaid wages. In additions, such Contractor and subcontractors shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of this Agreement in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of his standard work week of forty hours without payment of the overtime wages required by this Agreement.

23.2.4 Withholding for unpaid wages and liquidated damages: County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or its subcontractors under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractors for unpaid wages and liquidated damages as provided in the clause set for in this Agreement.

23.2.5 Subcontracts: Contractor or its subcontractors shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Agreement.

23.3. Patent Rights: If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to FEMA. Unless the Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), County and Contractor agree to take the necessary actions to provide, through FEMA, those
rights in that invention due the Federal Government as described in U.S. Department of
Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations and Small
Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37
CFR, Part 401. Contractor agrees to include the above two paragraphs in each third party
subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FEMA.

23.4. **Clean Water Act and Federal Water Pollution Control Act:**

23.4.1 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42
U.S.C. § 7401 et seq.

23.4.2 Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

23.4.3 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

23.4.4 Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

23.4.5 Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

23.4.6 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and shall report each violation to County and understands and agrees that County will, in turn, report each violation as required to assure notification to an appropriate Federal Emergency Management Agency, and an appropriate Environmental Protection Agency Regional Office.
23.4.7 Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.”

23.5. **Suspension and Debarment.**

23.5.1 This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Contractor is required to verify that none of Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

23.5.2 Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

23.5.3 This certification is a material representation of fact relied upon by County. If it is later determined that Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

23.5.4 Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

23.6. **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).** Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in
connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

23.7. **Procurement of Recovered Materials.**


23.7.2 The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

23.7.3 In the performance of this contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

i. Competitively within a timeframe providing for compliance with the contract performance schedule;

ii. Meeting contract performance requirements; or

iii. At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, [https://www.epa.gov/](https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program).

23.8. **Access to Records.** The following access to records requirements apply to this contract:

23.8.1 Contractor agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Contractor
which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

23.8.2 Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

23.8.3 Contractor agrees to provide the FEMA Administrator or his authorized representative(s) access to construction or other work sites pertaining to the work being completed under this Agreement.

23.9 Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

23.10. Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

23.11. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.


24. 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, Business Officer
3002 US Highway 421 North
Wilmington, North Carolina, 28401

To Contractor:

Attn: ____________________________

________________________________

________________________________

Acct# 70080700-700000 HU004

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25. **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.

26. **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]

[Signature] County Manager

ATTEST:

[Signature] Clerk to the Board

CONTRACTOR

[Signature](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:

[Signature] County Finance Officer

[Signature] 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 ________________________, 2018.

______________________________
Notary Public

My commission expires: ____________

STATE OF ______________

______________ COUNTY

I, __________________________________, a Notary Public of the State and County aforesaid, certify that _______________________ came before me this day and acknowledged that (s)he is Member/Manager of ________________________________, a ________________ corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed and sealed in its name by its President.

WITNESS my hand and official seal, this ____ day of ________________________, 2018.

______________________________
Notary Public

My commission expires: ____________
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.

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, backhoe, bobcat)
___ Welding, Cutting, and Brazing
___ Electrical Safety
___ 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 ____________________________  Date ____________________________

(Contractor)

Please return this signed page to the designated Department of Environmental Management Project Manager. A copy of the signed form will be kept in the Safety Officer’s files.