

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 #14-0140

**EMERGENCY HEAVY EQUIPMENT OPERATOR SERVICES
NEW HANOVER COUNTY LANDFILL
5210 U.S. Highway 421 North
Wilmington, NC 28401**

Request for Bids

Section 1: Advertisement

New Hanover County (NHC) is accepting bids for Emergency Equipment Operator Services for 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 # 14-0140 EMERGENCY HEAVY EQUIPMENT OPERATOR SERVICES**" will be accepted until **2:00 p.m. Tuesday, October 8, 2013.**

Instructions for submitting bids and complete requirements and information may be obtained by contacting Kim Roane, Business Officer: kroane@nhcgov.com. Instructions may also be obtained by visiting our website at <http://www.nhcgov.com/Finance/Pages/CurrentBids.aspx>. 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

Monday, September 23, 2013	RFB issued and advertised.
Tuesday, October 1, 2013 2:00 p.m.	Deadline for questions. All questions must be submitted in writing to Kim Roane, Business Officer (kroane@nhcgov.com).
Tuesday, October 1, 2013 2:00 p.m.	Bidder Interest: All who are interested in bidding must send an email by 2:00 p.m. Tuesday, October 1, 2013 to kroane@nhcgov.com , indicating at a minimum the bidder contact information including name and email address.
Thursday, October 3, 2013 7:00 p.m.	Questions will be answered via written addendum.
Tuesday, October 8, 2013 2:00 p.m.	Deadline for receipt of bids.

2.2 Bidder Instructions

- 2.2.1** Proposals shall be submitted as a document set, containing one (1) original, two (2) hard copies and one (1) electronic copy on either a CD or a flash drive.

Proposals must be submitted in a sealed envelope properly marked
“RFB # 14-0140 EMERGENCY HEAVY EQUIPMENT OPERATOR SERVICES”
and addressed to the County at the following address:

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

2.2.1(a) 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 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 on the bid **must** be initialed by the individual signing the bid. No corrections will be permitted once bids have been opened.

2.2.1(b) Bidder Interest: All who are interested in bidding must send an email by 2:00 p.m. Tuesday, October 1, 2013 to kroane@nhcgov.com, indicating at a minimum the bidder contact information including name and email address.

- 2.2.2** No telephone, electronic or facsimile proposals will be considered. Proposals received after the time and date for closing will not be considered.
- 2.2.3** There will not be a public bid opening. Bid tabulations will be emailed to all bidders once the bid has been awarded.
- 2.2.4** After the bid issue date, all communications 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 2:00 P.M., EST, Tuesday, October 1, 2013.**

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- 2.2.5** The deadline for receipt of all proposals is **Tuesday, October 8, 2013, at 2:00 PM, EST**. Any proposals received after the scheduled closing time will not be accepted.
- 2.2.6** 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.
- 2.2.7** 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.
- 2.2.8** 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.
- 2.2.9** 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.
- 2.2.10** Proposals must be signed by an authorized individual of the firm(s). Proposals that are not signed will be rejected.
- 2.2.11** 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;
 - 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.

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

2.2.13 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 Proposal 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.

2.2.14 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.

2.2.15 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.

2.2.16 The County is exempt from and will not pay Federal Excise Taxes or Transportation Taxes.

2.2.17 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.

2.2.18 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.

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

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

2.2.21 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 Section 3a, Contract draft. 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 contractor, his agents, representatives, employees, or subcontractors, whether such operations by himself/herself or anyone directly or indirectly employed by him/her.

2.2.22 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.

2.2.23 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.

2.3 Estimated Quantities

The County makes no guarantee as to the quantities, if any, of the services or materials the Contractor will actually provide, due to the emergency nature and the dependence upon weather and operating conditions that will determine the need for the services.

2.4 TERM and TIME/COMPLETION SCHEDULE

2.4.1 This contract will be through June 30, 2015, with the possibility of two (2) additional one (1) year extensions to the contract period.

2.4.2 This contract will be for any event deemed necessary for the implementation of Emergency Heavy Equipment Operator Services for the New Hanover County Landfill.

2.4.3 The CONTRACTOR shall provide heavy equipment and a qualified operator within 48 hours of notice to proceed. Hydro-seeding and/or silt fencing work shall be initiated on a per-project basis within the project timeline determined by the New Hanover County Landfill Manager. Completion of work will be at the discretion of the New Hanover County Landfill Manager.

2.5 E-Verify Compliance Requirement

Effective September 4, 2013, the N.C. General Assembly enacted Session Law 2013-418 requiring contractors and their subcontractors doing business with local government to perform E-Verify to check the work authorization of employees. The County requires an Affidavit for contractors and subcontractors to complete demonstrating their employee status has been checked and that records of such verification are being maintained. Contractors with fewer than 25 employees are still required to complete the Affidavit to demonstrate their exemption. The Affidavit is attached to the draft contract, and will be required to be completed by the contractor and submitted upon notification of bid award.

Information on E-Verify is available on the U.S. Citizens and Immigration Services website: <http://www.uscis.gov/portal/site/uscis>.

Section 3a: Contract draft

Draft contract attached to this RFB.

Section 3b: Scope of Services (also referred to as Contract "Exhibit A")

SCOPE OF SERVICES

EMERGENCY HEAVY EQUIPMENT 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)
 - Bulldozers (similar in size to a Caterpillar D5 or D6 unit)
 - Loaders (similar in size to a Caterpillar 924 unit)
 - Articulated dump truck (similar in size to a Caterpillar 725 unit)
 - Tractor with bush hog mower attachment
- Contractor shall provide, upon request, the following within the timeline requested on a per-project basis:
 - Hydro-seeding equipment and materials (measured by the acre)
 - Silt fencing construction (measured using silt fence/foot)
- Hydro-seeding mix shall include, at a minimum/acre:
 - 500 lbs. of 10-20-20 fertilizer
 - 2,000 lbs. of mulch
 - 35 pounds of Bermuda
 - 50 pounds of Bahia
 - 5 lbs. of Carpet
 - 5 lbs. of Centipede
 - 50 lbs. of Millet
 - 1,500 lbs. of lime

A similar mix of grasses may be accepted if pre-approved by the Landfill Manager.

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- Bid price shall include all fuel, oils and maintenance & repair costs to be provided by the contractor.
 - Mobilization and demobilization costs to transport the equipment to and from the site shall be included in the bid price.
 - 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 complete and submit the New Hanover County Environmental Management Department Contractor Compliance Requirements Document upon bid award.
 - Contractor shall complete and submit the New Hanover County E-Verify Affidavit upon request and prior to receiving a Purchase Order and Notice to Proceed. Effective September 4, 2013, the N.C. General Assembly enacted Session Law 2013-418 requiring contractors and their subcontractors doing business with local government to perform E-Verify to check the work authorization of employees. The County requires an Affidavit for contractors and subcontractors to complete demonstrating their employee status has been checked and that records of such verification are being maintained. Contractors with fewer than 25 employees are still required to complete the Affidavit to demonstrate their exemption.

Information on E-Verify may be found on the U.S. Citizens and Immigration Services website: <http://www.uscis.gov/portal/site/uscis>.

4.0 CONTRACTOR SAFETY REQUIREMENTS

- 4.1** 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 to the contract).
- 4.2** The Contractor shall be solely responsible for maintaining safety at all work sites. The Contractor shall take all reasonable steps to insure safety for both workers and visitors to include traffic control.
- 4.3** The Contractor shall comply with all NC Department of Transportation requirements including, but not limited to, placards and training.

5.0 OTHER LAWS AND REGULATIONS

CONTRACTOR will comply with any and all applicable federal, state and local standards, regulations, laws, statutes and ordinances regarding toxic, hazardous and solid wastes and any other pollutants; public and private nuisances; health or safety; and zoning, subdivision or other land use controls. CONTRACTOR will take all reasonably necessary, proper or required safety, preventative and remedial measures in accordance with any and all regulations and directives from the North Carolina Department of Human Resources, the North Carolina Department of Transportation, the United States Environmental Protection Agency, the North Carolina Department of

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Environmental Management, Health Departments, and any other federal, state or local agency having jurisdiction, to insure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued there under.

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**NEW HANOVER COUNTY
EMERGENCY HEAVY EQUIPMENT OPERATOR SERVICES CONTRACT #14-0140**

Price Sheet/Bid Form

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

DATE: _____ CONTRACTOR: _____

PHONE: _____ ADDRESS: _____

UNIT PRICE BID: The undersigned, having carefully examined the Instructions to Bidders, New Hanover County – Emergency Heavy Equipment Operator Services Contract dated September 23, 2013 including the following addenda;

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 contract documents for the following unit price amounts. Rates include equipment operator.

- | | | | |
|--|---------------------|--------------|---------------|
| 1) Excavator | \$ _____/hour | \$ _____/day | \$ _____/week |
| 2) Bulldozer | \$ _____/hour | \$ _____/day | \$ _____/week |
| 3) Loader | \$ _____/hour | \$ _____/day | \$ _____/week |
| 4) Articulated Dump Truck | \$ _____/hour | \$ _____/day | \$ _____/week |
| 5) Tractor with bush hog/mower | \$ _____/hour | \$ _____/day | \$ _____/week |
| 6) Hydro-seeding equipment and materials | \$ _____/acre | | |
| 7) Silt fencing construction | \$ _____/linear ft. | | |

Signature

Title

State of Incorporation

Bid Specifications RFB# 14-0140 Emergency Heavy Equipment Operator Services

NEW HANOVER COUNTY
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Email: kroane@nhcgov.com

**NEW HANOVER COUNTY
EMERGENCY HEAVY EQUIPMENT SERVICES BID #14-0140**

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 dated September 23, 2013, 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	

NORTH CAROLINA

AGREEMENT

NEW HANOVER COUNTY

THIS CONTRACT, made and entered into this _____ day of _____ 2013 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 RFP attached hereto as Exhibit "A" and incorporated herein.

2. Time of Performance. Contractor shall commence services on Notice to Proceed. The term of the Contract shall run through midnight on June 30, 2015. The Contract may be renewed for an additional two (2) one (1) year terms under the same terms and conditions upon written notice by County to Contractor at the end of each term.

3. Payment. County hereby agrees to pay for the cost of the contract not to exceed _____ (_____) Dollars. Payment is contingent upon a final County inspection and acceptance of services.

4. Extra Services. County and Contractor shall negotiate and agree upon the value of any extra services prior to the issuance of a Change Order covering said extra services. Such Change Order 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, on account of contract or personal injuries or death or on account of property damages arising out of or relating to the

services to be performed by Contractor hereunder, resulting from the negligence of or the willful act or omission of Contractor, its agents, employees and subcontractors.

6. Insurance. Before commencing any 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 services 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 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 Commercial General Liability 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 & 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 commercial umbrella, if any. The coverage shall contain no special limitations on the scope of protection afforded to County, its officers, officials, agents, and employees.

7.1.5 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.

7.1.6 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 excess of and not contribute with 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, Commercial Umbrella Liability insurance shall not be less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 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 Business Auto Liability and, if necessary, Commercial Umbrella Liability insurance with a limit of not less than \$1,000,000 each accident.

7.3.2 Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

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 County, its officers, officials, agents, and employees. Any other insurance or

self-insurance maintained by County, its officers, officials, agents, and employees shall be excess of and not contribute with 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, and employees; or 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 such policies are subject, whether or not County is an insured under the policy.

7.5 Miscellaneous Insurance Provisions

7.5.1 The policies are to contain, or be endorsed to contain, the following provisions:

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

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

7.5.4 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

7.6.1 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 specific approval.

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 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 Agreement.

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 Sub-Contractors. Contractor shall include all sub-contractors as insureds under its policies or shall furnish separate certificates for each sub-contractor. All coverage for sub-contractors shall be subject to all of the requirements stated herein. Commercial General Liability coverage shall include independent Contractors' coverage, and Contractor shall be responsible for assuring that all sub-contractors are properly insured.

7.9 Conditions

7.9.1 The insurance required for this contract must be on forms acceptable to County.

7.9.2 Where circumstances warrant, County may, at its discretion subject to acceptance by the Risk Management and Finance Department accept letters of credit or custodial accounts in lieu of specific insurance requirements.

7.9.3 Contractor shall provide that the insurance contributing to satisfaction of insurance requirements in this Agreement shall not be canceled, terminated, or modified by Contractor without prior written approval of County.

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

7.9.5 County reserves the right to obtain complete, certified copies of all required insurance policies, at any time.

7.9.6 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.

7.9.7 By requiring insurance herein, County does not represent that coverage and limits will necessarily 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.

7.9.8 If Contractor fails to maintain the insurance as set forth herein, County shall have the right, but not the obligation, to purchase said insurance at Contractor's expense.

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

7.9.10 County shall have the right, but not the obligation of prohibiting Contractor or any sub-contractor from entering the project site or withhold payment until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by County.

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

9. Warranty. Contractor warrants to County that any and all services furnished hereunder will be fully consistent with the standards of workmanlike quality prevailing in North Carolina at the time of service and that any and all materials and equipment furnished will be of good quality, free from faults and defects and in strict conformance with this Contract. All services not conforming to these requirements may be considered defective. All services shall conform to applicable Federal, State and Local laws and regulations. Contractor shall be responsible for all costs, damages and expenses including, but not limited to, penalties, fines and fees, that County may incur as a result of Contractor's failure to perform under this Agreement.

10. Default and Termination. If Contractor fails to prosecute the 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 services hereunder to 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 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 project is terminated prior to completion of the services by Contractor, Contractor shall be paid for 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 County from pursuing any other remedy, which it may have against Contractor, including claims for damages.

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

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 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. Contractor shall utilize no subcontractors for carrying out the services to be performed under this Contract without the written approval of County.

15. Entire Agreement. This Agreement 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. Further Actions. The parties will make and execute all further instruments and documents required to carry out the purposes and intent of this contract.

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

19. No Construction Against Drafter. This Agreement has been negotiated and drafted by both parties, so if an ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of the Agreement.

20. E-Verify Compliance. 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 shall be provided affidavits attesting to Contractor’s compliance. 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, Business Officer
3002 Highway 421 North
Wilmington, North Carolina 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)
President

[SEAL]

Secretary

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 Director

County Attorney

NORTH CAROLINA

NEW HANOVER COUNTY

I, _____, a Notary Public of the State and County aforesaid, certify that Sheila L. Schult 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 _____ Manager, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal, this _____ day of _____, 2013.

Notary Public

My commission expires: _____

NORTH CAROLINA

NEW HANOVER 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 Secretary of _____, a _____, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President.

WITNESS my hand and official seal, this _____ day of _____, 2013.

Notary Public

My commission expires: _____

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

AFFIDAVIT

I, _____ (the individual attesting below), being duly authorized by
and on behalf of _____ (the entity bidding on project
hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

- 1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
- 2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
- 3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (mark Yes or No)
 - a. YES _____, or
 - b. NO _____
- 4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This ____ day of _____, 2013.

Signature of Affiant
Print or Type Name: _____

State of North Carolina County of New Hanover

Signed and sworn to (or affirmed) before me, this the

day of _____, 2013.

My Commission Expires:

Notary Public

(Affix Official/Notarial Seal)

SCOPE OF SERVICES

EMERGENCY HEAVY EQUIPMENT 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)
 - Bulldozers (similar in size to a Caterpillar D5 or D6 unit)
 - Loaders (similar in size to a Caterpillar 924 unit)
 - Articulated dump truck (similar in size to a Caterpillar 725 unit)
 - Tractor with bush hog mower attachment
- Contractor shall provide, upon request, the following within the timeline requested on a per-project basis:
 - Hydro-seeding equipment and materials (measured by the acre)
 - Silt fencing construction (measured using silt fence/foot)
- Hydro-seeding mix shall include, at a minimum/acre:
 - 500 lbs. of 10-20-20 fertilizer
 - 2,000 lbs. of mulch
 - 35 pounds of Bermuda
 - 50 pounds of Bahia
 - 5 lbs. of Carpet
 - 5 lbs. of Centipede
 - 50 lbs. of Millet
 - 1,500 lbs. of lime

A similar mix of grasses may be accepted if pre-approved by the Landfill Manager.

- Bid price shall include all fuel, oils and maintenance & repair costs to be provided by the contractor.
- Mobilization and demobilization costs to transport the equipment to and from the site shall be included in the bid price.
- 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 complete and submit the New Hanover County Environmental Management Department Contractor Compliance Requirements Document upon bid award.
- Contractor shall complete and submit the New Hanover County E-Verify Affidavit upon request and prior to receiving a Purchase Order and Notice to Proceed. Effective September 4, 2013, the N.C. General Assembly enacted Session Law 2013-418 requiring contractors and their subcontractors doing business with local government to perform E-Verify to check the work authorization of employees. The County requires an Affidavit for contractors and subcontractors to complete demonstrating their employee status has been checked and that records of such verification are being maintained. Contractors with fewer than 25 employees are still required to complete the Affidavit to demonstrate their exemption.

Information on E-Verify may be found on the U.S. Citizens and Immigration Services website:
<http://www.uscis.gov/portal/site/uscis>.