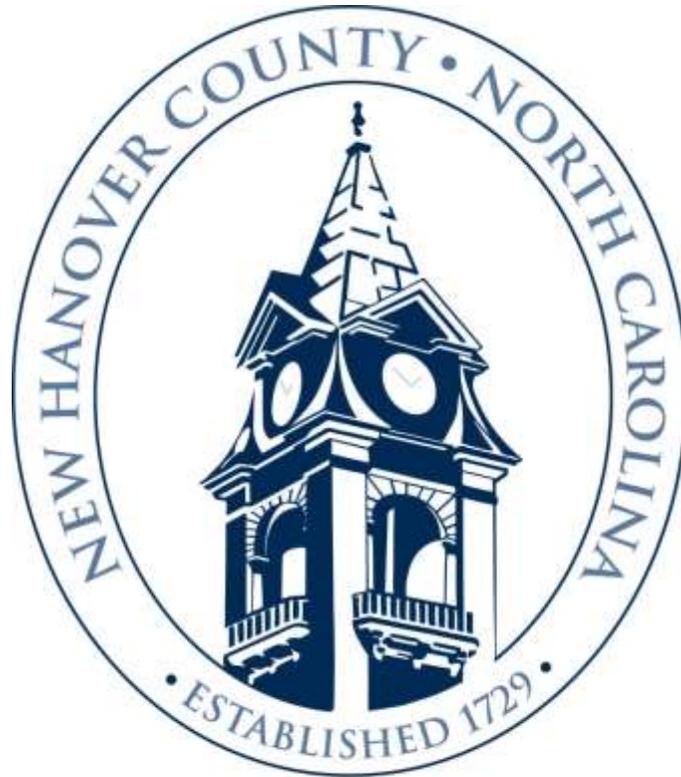


BID PROPOSAL AND SPECIFICATIONS

TIRE DISPOSAL SERVICES

BID # 16-0360



NEW HANOVER COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT

COUNTY COMMISSIONERS

**BETH DAWSON, CHAIRMAN
JONATHAN BARFIELD, JR., VICE-CHAIRMAN
SKIP WATKINS
WOODY WHITE
ROB ZAPPLE**

CHRIS COUDRIET, COUNTY MANAGER

TIRE DISPOSAL SERVICES

BID # 16-0360

NEW HANOVER COUNTY

Pursuant to General Statutes of North Carolina, Section 143-129, sealed bids will be received in the New Hanover County Environmental Management Department, 3002 U.S. Highway 421 North, Wilmington, North Carolina 28401 up to **Closing Time: 2:00 P.M. EST, Thursday, June 9, 2016.**

NOTES:

- 1. Faxed and email submissions will not be accepted.**
- 2. A bid bond is not required.**
- 3. A performance bond is not required.**

**CONTACT
INFORMATION:**

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

**Phone: (910) 798-4402
Email: kroane@nhcgov.com**

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Section 1 Advertisement

NEW HANOVER COUNTY

REQUEST FOR BID

ON

TIRE DISPOSAL SERVICES

Pursuant to Section 143-129 of the General Statutes of North Carolina, sealed bids addressed to Kim Roane, Business Officer, New Hanover County Environmental Management Department, 3002 U.S. Highway 421 North, Wilmington, North Carolina 28401 and marked “**TIRE DISPOSAL SERVICES – BID # 16-0360**” will be accepted until **2:00 P.M. EST, Thursday, June 9, 2016**.

The bids will be publicly opened and read immediately following the latest time for receipt of bids in the New Hanover County Environmental Management Department Conference Room, 3002 U.S. Highway 421 North, Wilmington, North Carolina.

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

The Board of County Commissioners reserves the right to accept or reject any or all bids and to make the purchase which will be in the best interest of the County.

Kim Roane, Business Officer
New Hanover County
(910) 798-4402

Released: Thursday, May 19, 2016

Section 2 Instructions and General Conditions

2.1 Schedule

Advertisement	<i>Thursday, May 19, 2016</i>
Deadline for Questions	<i>2:00 P.M., EST, Thursday, June 2, 2016</i>
Deadline for Receipt of Bids	<i>Thursday, June 9, 2016 at 2:00 PM</i> New Hanover County Environmental Management Department 3002 U.S. Highway 421 N. Wilmington, NC 28401 (Opening to be held in Environmental Management Conference Room)
Proposed Date of Award	<i>Monday, June 13, 2016</i>

2.2 Preparation of Bid Proposal

2.2.1 Completion of Bid Form: Bidders are directed to submit their bid on the bid proposal form contained in this bid package. **DO NOT REMOVE THE BID PROPOSAL FORM. SUBMIT THE ENTIRE BID PACKAGE.** Bidders are instructed to submit the original and three copies. All prices and notations shall be written in ink or typed. Discrepancies between words and numerals will be resolved in favor of words. Discrepancies between the multiplication of units of work and unit prices will be resolved in favor of the unit prices. 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 received and opened. **BIDS NOT SIGNED WILL BE REJECTED.**

2.2.2 Required Specifications: Bidder shall submit as part of his proposal detailed specifications for the goods bidder proposes to furnish. Bidder's specifications shall be in strict accordance with the County's specifications. Any bid which is not in strict accordance with the County's specifications must list each exception separately in a letter submitted as an attachment to the Bid Proposal. Any item marked "Do Not Comply" by the bidder on the Bid Compliance Form must also be addressed in the exception letter.

2.2.3 Deviations: New Hanover County reserves the right to allow or disallow minor deviations or technicalities should the County deem it to be to 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.

2.2.4 Warranties: Bidder warrants that all goods furnished shall be free from all defects, and shall conform in all respects to the technical specifications established by the County. Bidder shall submit manufacturers' warranties against defects in materials and workmanship covering the goods bid upon.

If the County's specifications include a statement of the particular purpose for which the goods will be used, the goods offered by bidder shall be fit for this purpose.

2.3 Submission of Bid Proposal

Submit one (1) original and two (2) hard copies of the bid, in a sealed envelope properly marked "**TIRE DISPOSAL SERVICES – BID # 16-0360,**" and address to the County at the following address: **DO NOT REMOVE THE BID PROPOSAL FORM. SUBMIT THE ENTIRE BID PACKAGE INCLUDING YOUR PROPOSAL.**

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

2.4 Condition of Goods

All goods shall be new and in no case will used, reconditioned, refurbished, remanufactured, or obsolete equipment be accepted.

2.5 Trade Secret Confidentiality

Upon receipt of your bid by the County, it is considered a public record as defined under N.C. General Statute 132-1 except for material which qualifies as "trade secret" information. After the bid opening, the County's Evaluation Team as well as other staff who evaluate bids and members of the general public who submit public records requests will review your bid. To properly designate material as trade secret, each Bidder must take the following precautions: (a) any trade secrets submitted by a Bidder should 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 should 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 may 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.

2.6 Time for Opening Bids

Bids will be opened promptly and read at the time and date set forth in the advertisement. Bidders or their authorized agents are invited to be present. Any bids received after the scheduled closing time for the receipt of bids will not be accepted.

2.7 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 sixty (60) days.

2.8 Award of Bid

The award resulting from this bid will be made to the lowest responsible bidder, taking into consideration quality, performance and time specified in the proposal for the performance of the contract. New Hanover County reserves the right to add or delete items or adjust quantities.

2.9 Considerations in Award of Bid

In determining the lowest responsible bid in accordance with G.S. 143-129, the Board of Commissioners will consider, among other factors: modern, accepted practices; engineering, design, efficiency and workmanship; maintenance costs; availability of service and parts inventory; and performance (based on County's previous use of the same or similar equipment made by the manufacturer).

2.10 Federal Taxes

New Hanover County is exempt from and will not pay Federal Excise Taxes or Transportation Taxes.

2.11 North Carolina Sales Tax

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

2.12 Price and Binding Offer

Bidder shall guarantee the prices quoted against any increase for whatever delivery date is specified and contract period required. Each bid shall constitute a firm offer that is binding for ninety (90) days from the date of the bid opening.

2.13 Place of Delivery

Goods shall be delivered F.O.B. Destination, at the locations within New Hanover County as designated by the New Hanover County Environmental Management Department, and shall be complete and ready for use unless otherwise specified.

2.14 Instruction in Use of Goods; Demonstration

County may require a demonstration of the goods bid upon; the demonstration shall be at no cost to County. If bidder cannot make a demonstration within 20 days of request, bidder's bid may be rejected. Performance of the equipment at the demonstration will be a factor in the award of the contract. Demonstrations must be made with the same model of equipment as that bid. The County may require the demonstration at the same time competitive demonstrations are made.

The successful bidder shall be responsible for instructing County personnel in the proper use and maintenance of the goods.

2.15 Responsibility of Compliance With Legal Requirements

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

2.16 Indemnity

VENDOR 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 VENDOR hereunder, resulting from the negligence of or the willful act or omission of VENDOR, his agents, employees and subcontractors.

2.17 Addendum

The bid package constitutes the entire set of bid 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 mailed to all bidders who are listed with the Environmental Management Department as having received the bid package.

2.18 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.

2.19 County's Rights and Options

The County reserves the following rights, which may be exercised at its sole discretion:

- 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.

2.20 Brand Names

Any reference to brand names in the specifications is made to aid the bidder and indicate more clearly the quality desired and is not mentioned to limit or restrict the bidding to any particular brand.

2.21 Questions and Clarification

After the Bid issue date, all communications between the County and prospective Bidders regarding this Bid shall be in writing. Any inquires, requests for interpretation, technical questions, clarification, or additional information shall be directed to Kim Roane, Business Officer, by emailing kroane@nhcgov.com. All questions concerning this Bid shall reference the Bid number, section number and paragraph. Questions and responses affecting the scope of the services will be provided to Bidders by issuance of an Addendum which will be posted to the County's website at <http://www.nhcgov.com/Finance/Pages/CurrentBids.aspx>. The addendum will appear under the advertisement on the County's website. **All questions shall be received no later than 2:00 P.M., EST, Thursday, June 2, 2016.**

2.22 Cost of Preparation

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.

2.23 Insurance and Contract

Contractor insurance requirements are specified within the attached draft contract document.

A valid certificate of insurance shall be submitted by the contractor to the County upon award of bid.

Section 3: Technical Specifications and Bid Compliance Form

BID COMPLIANCE FORM

(THIS FORM MUST BE COMPLETED BY BIDDER AND SUBMITTED WITH BID)

Item	Minimum Specification	Doesn't meet spec	Meets Spec	Exceeds Spec	Comments
3.1	<p>General These specifications are to be considered as minimums for the transporting, processing, recycling and/or disposing of all scrap tires in accordance with all applicable state, federal and local environmental and safety laws, regulations, ordinances and standards, regardless of specific inclusion or reference within the contract documents.</p>				
3.2	<p>Contractor agrees to provide and stage up to three (3) trailers (53' in length per trailer) at the New Hanover County Landfill, located at 5210 U.S. Highway 421 North, Wilmington, NC, for tires delivered to the Landfill. Trailers must be serviced within 24 hours of notification received from the County, excluding weekends and County holidays.</p>				
3.3	<p>Contractor agrees to provide and stage a minimum of fourteen (14) additional trailers (minimum 40' in length per trailer) at other sites located within the County as designated by the County. These trailers must be serviced within 72 hours of notification received from the County, excluding weekends and County holidays.</p>				
3.4	<p>Contractor agrees to offer trailers for rent to privately owned businesses located within New Hanover County generating less than 500 scrap tires/month at the rate/month of cost/load as per bid. These trailers must be serviced within 72 hours of notification received from the business, excluding weekends and County holidays. Payment for trailer rental to be arranged directly with the privately owned businesses and not paid by the County. Rental rate shall correspond to size of trailer and/or frequency of service.</p>				
3.5	<p>Contractor agrees to accept, on behalf of the County, tires transported directly to the contractor site at a reduced cost/ton as per bid.</p>				
3.6	<p>Contractor agrees to provide the County with monthly invoices that include the tonnage and cost of each load from every trailer serviced, including trailers referenced in items #3.4 and #3.5 above.</p>				
3.7	<p>Contractor shall be responsible for maintenance of trailers located at all sites.</p>				

Section 4 Bid Proposal (Do Not Include Tax in Your Bid)

**TIRE DISPOSAL SERVICES
BID # 16-0360**

(The Deadline for Receipt of Proposals: Thursday, June 9, 2016 at 2:00 PM)

Tire Disposal Services 3.1, 3.2, 3.3 \$ _____

Tire Disposal Services 3.4 (Cost to private businesses) \$ _____

Describe 3.4 pricing basis (size and/or frequency of service): _____

Tire Disposal Services 3.5 \$ _____

(Reduced cost/ton for tires transported directly to the contractor site)

Address of contractor site for acceptance of tires: _____

State the approximate number of days after receipt of purchase order equipment will be delivered _____

Other : _____

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm, or person submitting a bid for the same equipment and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. I further certify that the proposed equipment meets or exceeds the minimum specifications as listed in this bid package.

Signature

Printed Name/Title

Company _____

Address _____

City, State _____

Zip Code _____

Phone Number _____

Fax Number _____

Email Address _____

Attachments to Proposal

1. Description of services offered.
2. Photographs of equipment to be placed.
3. Exceptions to bid (if any).
4. Completed Bid Compliance Form (checklist) as part of entire bid package.

NORTH CAROLINA

AGREEMENT

NEW HANOVER COUNTY

THIS CONTRACT, made and entered into this ____ day of _____, 2016 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 agrees to provide transportation, processing, recycling, and/or disposal of scrap tires in accordance with all applicable federal, state, and local laws. Contractor shall provide and stage up to three (3) trailers at the New Hanover County Landfill located at 5210 U.S. Highway 421 North, Wilmington, North Carolina, for scrap tires delivered to the Landfill as more fully described on the "Scope of Work" attached hereto as Exhibit "A" and incorporated herein by reference.

2. Time of Performance. The Contractor shall begin work on Notice to Proceed and shall continue all work or services until June 30, 2018. The parties may by written agreement renew this Agreement for two (2) additional one (1) year periods upon the same terms and conditions as set forth herein.

3. Payment. Contractor shall provide County with monthly invoices that include the tonnage and cost of each load from every trailer serviced. County hereby agrees to pay Contractor for the work, to include processing, transportation, recycling and/or disposal of scrap tires, an amount not to exceed _____ (\$_____) dollars.

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, on account of Contract or personal injuries or death or on account of property damages arising out of or relating to the work or 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 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 and if necessary, Commercial Umbrella Liability insurance with a total limit of not less than \$2,000,000 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 and

CG 20 37, or an endorsement providing equivalent coverage as respects to liability arising out of activities performed by or on behalf of Contractor; products and completed operations of contractor; premises owned, leased or used by Contractor; and under the 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.

7.1.4 The status of County as an additional insured under a CGL obtained in compliance with this Contract shall not restrict coverage under such CGL with respect to the escape or release of pollutants at or from a site owned or occupied by or rented to County.

7.1.5 There shall be no endorsement or modification of the CGL or Umbrella Liability limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage, employment-related practices, or damage to the named insured's work.

7.1.6 Contractor's Commercial General 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 excess of and not contribute with contractor's insurance.

7.2 Workers' Compensation and Employer's Liability

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

7.2.2 The Employer's Liability, and if necessary, Commercial Umbrella Liability 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 work 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 \$2,000,000 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, 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, or 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, regardless of whether County is an insured under the policy.

7.5 Miscellaneous Insurance Provisions. The policies are to contain, or be endorsed to contain, the following 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 canceled by either party except after 30 days prior written notice has been given to County, 230 Government Center Drive #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 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 work, 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 Sub-Contractors. 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 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 contract and 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 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 subcontractor 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. Title to Goods & Insurable Interest. Title to tires shall pass to Contractor, and Contractor shall obtain an insurable interest therein at the moment each respective tire is placed on Contractor's trailer at the County Landfill and all other sites within County.

9. Risk of Loss. For the purposes of this Contract, risk of loss shall pass to Contractor upon identification of goods as described in Paragraph 8 above.

10. 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, workmen's compensation, or pension and retirement benefits.

11. Warranty. Contractor warrants to County that any and all labor furnished to progress the work under this contract will be competent to perform the tasks undertaken, in a workmanlike manner, so as to meet the standards of workmanlike quality prevailing in North Carolina at the time of construction, that any and all materials and equipment furnished will be of good quality and that the work will be of good quality, free from faults and defects and in strict conformance with this contract. All work not conforming to these requirements may be considered defective. All work 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 because of Contractor's failure to perform under this Contract.

12. Default and Termination. If Contractor fails to prosecute the work 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 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 work 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.

13. 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.

14. 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.

15. 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.

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

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

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

19. Further Actions. The parties will make and execute all further instruments and documents required to carry out the purposes and intent of this Contract.

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

21. No Construction Against Drafter. This Contract has been negotiated and drafted by both parties, so if an ambiguity or a question of intent or interpretation arises, this Contract 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 Contract.

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

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

24. Iran Divestment Act of 2016 Compliance Pursuant to N.C.G.S. 147-86.55 et. seq. The Act requires that the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any contractor or subcontractor found on the State Treasurer’s Final Divestment List. Contractor certifies that it or its subcontractors are not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-85.60. The State Treasurer’s Final Divestment List can be found on the State Treasurer’s website at the address www.nctreasurer.com/Iran and will be updated every 180 days.

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

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

To Contractor:

26. 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.

27. 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.

[SEAL]

NEW HANOVER COUNTY

County Manager

ATTEST:

Clerk to the Board

CONTRACTOR

BY: _____ (Seal)

ATTEST:

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

STATE OF NORTH CAROLINA

NEW HANOVER COUNTY

I, _____, a Notary Public of the State and County aforesaid, certify that Teresa P. Elmore 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 _____, 2016.

Notary Public

My commission expires: _____

STATE OF NORTH CAROLINA

_____ 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 _____ 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 _____.

WITNESS my hand and official seal, this _____ day of _____, 2016.

Notary Public

My commission expires: _____