

REQUEST FOR PROPOSALS

Solid Waste Management Development & Operations

Requested by:

**Haywood County Government
215 North Main Street
Waynesville, North Carolina
September 1, 2010**

REQUEST FOR PROPOSALS

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**SECTION 1
COVER LETTER**

September 1, 2010

Re: Request for Proposals

Dear Respondent:

Attached you will find an extensive Request for Proposals ("RFP") for Solid Waste Management, Development and Operations on behalf of Haywood County, North Carolina ("County"). We hope you will review this document thoroughly and participate in this effort on the part of the County. Haywood County is hereby soliciting responses to its request for proposal from knowledgeable, qualified persons, firms or corporations in the solid waste management industry. While the document is comprehensive, it is by no means intended to be exhaustive or restrictive. The County desires to initiate an open dialogue and negotiation process with interested and qualified companies.

While the County is approaching this process in an open minded and flexible manner, there are a few principles, which will be adhered to as follows. First, the County's primary interest is in reaching an agreement, which is in the financial best interests of the citizens and taxpayers of the County. In other words, any resulting agreement must be a good business deal for our citizens and taxpayers. Second, the County must be assured that all solid waste disposal requirements for the County, its citizens, residents, businesses and visitors will be met for a period of not less than thirty (30) years.

The County recognizes that certain permit modifications may be required. The ultimate responsibility for permitting will be the subject of negotiation. The County has an effectively functioning landfill and solid waste program under its current permit structure. The County recognizes that permit modifications can take time and is willing to delay implementation of any resulting agreement until such modifications can be accomplished.

Lastly, the structure of any resulting agreement is open to negotiation. The County will entertain offers to sell or lease its landfill and other solid waste collection assets. Alternatively, the County will entertain offers for a franchise or management agreement.

Thank you taking your time to participate in this process. For any questions, please refer to the attached RFP.

Respectively,

David Cotton
Haywood County Manager

SECTION 2
ADVERTISEMENT - REQUEST FOR PROPOSALS

Haywood County is requesting proposals for qualified independent Contractors to submit proposals for performing the day-to-day Solid Waste Landfill Management operations of Haywood County's Existing Municipal Solid Waste Landfill, as defined herein, and to include the future design, development and construction of New Landfill cells, as defined herein, in order to provide for solid waste management infrastructure for Haywood County for a minimum of twenty-year (20) period and site and facilitation of waste disposal for a minimum of thirty (30) years. The County is also interested in Contractors identifying any interest in maintaining and operating the Transfer Station located on Recycle Road in Clyde, North Carolina, which may be submitted either as a separate proposal or as joint proposal together with landfill management.

It is the expressed primary goal of the County to identify the potential for increasing revenue to Haywood County from solid waste management assets as well as the potential for eliminating or minimizing expenses associated with operating and maintaining these assets. The county has incurred some indebtedness for improvements and expansions made to the existing landfill, which must be satisfied by any successful response to the RFP. The County is amenable to permit modifications needed to address the successful proposal/bid.

The purpose of this request for proposals is to gather information and responses to this request will be viewed for informational purposes as well as proposal acceptability. The County's acceptance of such responses shall not be considered as offers to be accepted by the County to form a binding contract. The County may or may not select and negotiate with one or more of the responding Qualified Independent Contractors to perform these solid waste management operations and associated development, construction and maintenance services. However, any successful contractor or contractors will be responsible for financing any modifications, upgrades, expansions, or development and construction of new infrastructure for solid waste management in the County. Selection and negotiation of a binding contract with one or more of the Contractors responding with a proposal is also contingent upon the approval of permit requirements of the State of North Carolina and performance of all services in accordance with Federal, State, and Local laws, rules, regulations, and ordinances, including but not limited to North Carolina's requirements for solid waste management franchises set forth in North Carolina Statute 130A-294. If your company is interested in performing the day-to-day operations of the Existing Haywood County Municipal Solid Waste Landfill and the future development and construction of new landfill cells and/or is interested in operating the County's transfer station, a sealed proposal shall be submitted to the Finance Office of Haywood County by 2:00 p.m. October 8th, 2010, at which time they will be publicly opened in the Second Floor Conference Room of the Historic Courthouse, 215 North Main Street, Waynesville, NC and the names of the proposers read aloud in accordance with North Carolina Statutes. Each sealed envelope containing a proposal must be plainly marked on the outside as "Proposal for Solid Waste Management Development and Operations."

No proposal will be received or accepted after the specified time for the opening of the proposals. Such proposals may be deemed invalid and returned unopened to the proposer. A proposal submitted

elsewhere than above will not be accepted. TEN (10) COPIES OF EACH PROPOSAL MUST BE SUBMITTED. Contractors submitting a proposal for either the landfill operation, the transfer station operation or both, must be prepared to present their option at a public forum, which may include local government officials and staff, regulatory agency representatives, media representatives, and community members.

Haywood County reserves the right to waive any formalities or to reject any or all proposals, to evaluate proposals, and to accept any proposal, which, in its opinion, offers the most acceptable proposal to provide landfill and/or transfer station operations to Haywood County, or not to accept any of the proposals.

SECTION 3 GENERAL INFORMATION

300 Definitions

For purposes of this Request For Proposals, the following definitions shall apply:

1. **"Contract"** shall mean the landfill operating agreement and/or the transfer station operation agreement executed between Haywood County and the Contractor.
2. **"Qualified Independent Contractor"** shall mean the successful bidders who submit an acceptable response to this Request for Proposals.
3. **"Contractor"** shall mean any person, firm, or corporation, which is awarded one or more of the potential contracts and satisfactorily executes the same.
4. **"County"** shall mean the County of Haywood, a political subdivision of the State of North Carolina. To be used interchangeable with "Owner".
5. **"County Chairman"** shall mean that person who chairs the Board of County Commissioners.
6. **"EPA"** shall mean the U.S. Environmental Protection Agency.
7. **"Existing Landfill"** shall mean the existing solid waste landfill known as the White Oak Solid Waste Landfill, which is operating under the currently applicable NC landfill permit number 44-07, and including all phases of the landfill addressed in that permit, whether built or to be built, and the LDIC operations addressed in the permit.
8. **"Financial Assurance"** shall mean the satisfaction of financial responsibility and assurance mechanisms required by any government agency by law, regulation, or

permit applicable to owners and operators of Haywood County's Existing and New Landfills at any time during the term of this agreement between Haywood County and Contractor.

8. **"New Landfill"** shall mean the Haywood County Municipal Solid Waste Landfill, which includes the proposed legal boundaries located on State Road 1338 in the White Oak Community of Haywood County, permit number 44-07, also referred to as Phase III, IV, V, VI and VII.
9. **"Transfer Station"** shall mean the Haywood County Transfer Station located on Recycle Road in Clyde, North Carolina.
10. **"Proposal"** shall mean any person, firm, or corporation's written response to this RFP. Used interchangeably with "Bid Proposal."
11. **"Proposer"** shall mean any person, firm, or corporation that submits a written proposal in response to this Request for Proposals. Used interchangeable with "Contractor".
12. **"Request for Proposals" or "RFP"** shall mean all the documents including addenda, issued by the County as part of this request.
13. **"NCDENR"** shall mean the North Carolina Department of Environment and Natural Resources.
14. **"Authorized Haulers"** shall mean any hauler carrying waste which is approved for acceptance at the Haywood County Landfill, either Existing or New Landfills, and originating from municipalities, convenience centers or rural generators contemplated by the Haywood County Solid Waste Management Plan or under contract with the County or Contractor, including but not limited to waste which may be managed at, hauled to or hauled from the Haywood County Transfer Station.

301 Introduction

The intent and purpose of this RFP for which proposals are sought are to assure the compliant, healthful, affordable and efficient operation of the existing Haywood County Municipal Solid Waste Landfill, the development of new landfill cells, and the operation of the existing county-owned transfer station, which shall meet all Subtitle D landfill requirements. While there is no limitation on the sources of waste to be considered, it is the desire of the County to obtain and consider solutions that maximize the efficiency, economic feasibility, regionalization, recycling, and waste minimization opportunities offered by its existing infrastructure coupled with the technology and experience of Qualified Independent Contractors.

Sealed Proposals for the operation and development of the Haywood County Municipal Solid Waste Landfill, North Carolina and/or the Recycle Road Haywood County Transfer Station are hereby requested by Haywood County. Proposals will be received until 2:00 PM, October 8, 2010, local time at the County's Finance Department, 215 North Main Street. A sealed envelope shall be clearly marked "Proposal for Solid Waste Landfill Development and Operations", "Proposal for Solid Waste Transfer Station Development and Operation", or list both, if applicable.

Proposals shall be publicly opened and pertinent selected portions read aloud by the County at 2:00 PM, local time, in the second floor conference room of the Haywood County Historic Courthouse. As set forth in 308 any and all responses to this RFP are considered public information, except for trade secrets or company confidential information specifically identified in the proposals, which will be treated as such so long as such treatment is compliant with all applicable federal, state and local laws and ordinances.

302 Background

The purpose of this Request for Proposals is to secure information which may lead to a contract at a competitive revenue stream to Haywood County with a Qualified Independent Contractor for operation and maintenance of the Existing Haywood County Municipal Solid Waste Landfill for the remaining life of the Existing Landfill and the development of New Landfill cells, located on adjacent land as shown in Exhibit A, herein, to the Existing Landfill. The Existing Landfill and New Landfill will receive municipal solid waste from Authorized Haulers as determined by Haywood County who choose to utilize both the Existing and New Landfill as well as private citizens of Haywood County. Any landfill proposal will exhibit proposer's intent and method to provide for financial responsibility for both the New and Existing landfills. A second purpose of this Request for Proposals is to secure information, which may lead to a contract at a competitive revenue stream to Haywood County with a Qualified Independent Contractor for operation and maintenance of the Existing Haywood County-owned Transfer Station. One proposer may include both landfill and transfer station operations in a single proposal or may choose to submit separate or single proposals. It is also contemplated that the service area of the existing Haywood County landfill permit may be expanded for purposes of maximizing the economic viability of continued operation and maintenance services provided by and to Haywood County as allowed by state law and that the County will consider and, if agreement is reached on a proposed expanded service area, will cooperate in any way to effect any changes necessary for accomplishing this goal.

The Contractor will perform all activities associated with the daily operation of the Existing Landfill and the design, development, environmental compliance, financing, completion of permit applications, construction and operation of the New Landfill. These activities include, but are not limited to, the following tasks:

- a. Receive all delivered municipal solid waste from private citizens and from Authorized Waste Haulers licensed to operate in Haywood County, including, but not limited to, development of a implementable plan for improved characterization verification, weighing functions, calibration, and recordkeeping required to provide auditable receipt, compliance and financial record; and
- b. Dispose of municipal solid waste in accordance with all federal, state and local laws and ordinances, in the Haywood County Municipal Solid Waste Landfill; and
- c. Maintain and forward to the County accurate, auditable records of the quantity of materials received in such detail as deemed necessary by the County to comply with regulations issued by EPA and NCDENR, and protect the financial interests of County citizens.
- d. Develop, design, finance, construct and operate the New Landfill in accordance with regulations and ordinances issued by EPA, NCDENR and local government, which includes any zoning, design and engineering, excavation and construction, daily management, monitoring and closure requirements.
- e. Identify any necessary site modifications including but not limited to the following: improvements in traffic flow, installation of new scales, scale house, convenience center/drop off area to enhance safety and improve operational efficiencies at the Landfill.
- f. Not increase or impose any additional liabilities (economic or environmental) on the County due to its operations or contractual arrangements.
- g. Comply with Haywood County's and the state of North Carolina waste reduction goals.
- h. Assist the County in its compliance with North Carolina's Solid Waste Management Policy and Goals (N.C. G.S. §130-309.04).
- i. Consider recycling and energy (landfill gas recovery) potential and non-interference with existing contracts and/or activities of the County.
- j. Assist the County in all necessary permitting activities for Existing Landfill.

Any response that addresses the Transfer Station services must include, but may not be limited to the following:

- a. Maintenance, compliance and daily operation of the Transfer Station operations.
- b. Any recommended/contemplated improvements of the Transfer Station facilities.

- c. Operation of the Transfer Station to be consistent with performance of the County's Materials Recovery Operations, recycling improvements, waste reduction methodologies and financial proposal for recycled materials.
- d. Receipt, recycling, and financial recordkeeping and compliance plans.

All submittals must disclose the anticipated sources of waste volumes along with volumes needed to operate the waste management services in a financially viable manner.

All submittals in response to this RFP must include a statement that the proposal will remain valid for 120 days from the date of its submission and be signed by a party with the authorization to enter into negotiations and bind the Qualified Authorized Contractor in execution of a contractual agreement with the County. The signatory or an identified contact person must be available to respond to requests for additional information.

Upon award the Contractor will be expected to assist the County in updating the County's Solid Waste Plan per N.C. G.S. §130A-309.07, along with participating in the County's emergency planning efforts.

303 Owner Responsibilities

The Contractor shall be responsible for obtaining and maintaining all permits necessary to operate the Existing Landfill and/or Transfer Station, providing technical assistance and input to the Owner. The Owner shall maintain all permits in its name.

304 Anticipated Solid Waste Volumes

The current daily average of solid waste is 151.89 tons. Daily volumes are expected to vary from 16.83tons to 302.76 tons.

305 Schedule of Events (subject to change)

EVENT	DATE	LOCATION
Issuing RFPs:	September 1, 2010	Legal Public Notice via Media

Submittal of Proposals:	2 p.m. October 8, 2010	County Historic Courthouse
Contractor Selection:	November 5, 2010	County Historic Courthouse
Contract Execution:	November 30, 2010	County Historic Courthouse
Contractor Start-Up:	TBD	

306 Award of Contract

The Award of Contract(s) may be awarded within thirty (30) calendar days after the date of the Opening of Proposals. The successful Proposer(s) will be notified, by Notice of Award by certified mail sent to the address shown on his/her Bid Proposal, that Contractor's Bid Proposal has been accepted and that Contractor has been awarded the Contract.

307 Execution of Contract

Within four (4) calendar days after receipt of Notification of Award, the Proposer(s) to whom any award is made, shall execute and return the Contract in the required number of copies and shall furnish an irrevocable Letter of Credit or Performance Bond (and any insurance certificates) satisfactory to the County.

308 Confidential Data

Request for nondisclosure of data such as trade secrets and other propriety data, must be made known to the County in submitted proposals, and confidential information shall be included in a separate sealed envelop marked clearly as "**Confidential Information**" at the top of each page containing such designated information in letters at least one-half inch high. The County will determine its validity prior to entering into negotiations. If the parties do not agree as to disclosure of data in the proposal, the County shall inform the Proposer in writing what portion of the proposal will be disclosed and that, unless the Proposer withdraws the proposal or protest, the proposal will be disclosed. The proposals shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential information. Proposals of Proposers who are not awarded the contract shall not be open to public inspection.

309 Term of Contract

The term of the Contract for Landfill operation and maintenance shall be a minimum of twenty (20) years and may be renewed for an additional twenty (20) years as negotiated by the Contractor and the County. Facilitation of waste disposal will be required for a

minimum of thirty (30) years. Through negotiations, the parties may mutually decide to include an adjustment of the Contract prices, if any, host fees paid to the County, if any, and other terms and conditions addressed in this RFP.

SECTION 4 PROPOSER QUALIFICATIONS

400 Technical Qualifications

The proposal shall include sufficient information to demonstrate that the Contractor has the necessary qualifications to design, site, permit, construct and operate publicly owned, Subtitle D sanitary landfills, and/or, as applicable, solid waste transfer stations.

The proposal shall include a narrative describing the qualifications and experience of the Proposer relative to sanitary landfill and/or transfer station operations.

The proposal shall include a complete listing of all government owned and operated solid waste operations, including, but not limited to sanitary landfills and/or transfer stations currently in operation or under construction by the Proposer and any affiliates, in any geographic location. The list shall include the following information:

- Name and type of facility
- Permitting agency
- Locations
- Site owner
- Permitted capacity
- Size
- Average annual wastes received and amounts
- Starting date of Proposer's operations
- Types of wastes received
- Example of operation & maintenance reports
- List of references and a statement of permission to contact references.

The proposal shall also include:

- Resumes of both key site and key company personnel to demonstrate the Contractor's staffing and capability to manage, supervise, operate, and maintain the landfill and transfer station;
- A letter of certification that the Contractor will locate a permanently staffed office at the site for the term of the Contract. Office to be staffed during operational hours with an after-hours number in cases of emergency;

- A detailed compliance, safety, training and contingency plan or plans, for personnel on site;
- An equipment preventative maintenance program for equipment to be utilized on site;
- A hazardous, special, unacceptable, banned and infectious waste screening program for ensuring how periodic testing of solid waste entering the site will be handled and documented; and,
- A list of all Notices of Violation or other enforcement actions, Consent Orders or Consent Agreements, civil or criminal penalties assessed within the past five (5) years against the Qualified Independent Contractor, or its predecessors; or any solid waste management facility or activities operated by responding entity. Responder shall include the status, settlement/response to these enforcement actions.
A list of all pending citizen suits (or suits filed and resolved in the last five years) involving alleged violations of federal, state, or local environmental laws applicable to solid waste management activities of the Qualified Independent Contractor, its predecessors, or the responding entity.

401 Financial Qualifications

The proposal shall include sufficient information to demonstrate that the Contractor has the necessary financial strength to provide services requested in this RFP, including but not limited to financial responsibility requirements:

- A financial status and report of Contractor's last three (3) fiscal years;
- A certification that Contractor or any predecessor companies has ever filed under the Bankruptcy Act within the past seven (7) years; and
- A statement of financial stability and corporate commitment to the business, including years of experience in the sanitary landfill and/or transfer station operation field
 - Copies of insurance policies intended for use in satisfying contractual requirements of this RFP.
 - Financial Assurance Mechanisms intended for use in satisfaction of contractual requirements of this RFP.
 - Expected revenues/royalties/host fees to be paid to the County and/or fees to be charged to the County under this proposed arrangement, if any.

SECTION 5 INSTRUCTION FOR PROPOSALS

500 Proposal Requirements

Proposals shall address all information in accordance with the format presented in this section. Proposals that do not address all of the requested information will be considered incomplete and nonresponsive, and will be rejected.

The County or its representatives shall not be held liable or responsible for any expenses incurred by any responder or Qualified Independent Contractor in connection with the preparations of any responses to this RFP for proposal, site visits, or required meeting attendance. In no event shall potential responders expect reimbursement of related expenses from unsuccessful/non-selected responses/bids nor should expenses for or from successful bids be incorporated into anticipated future County payments.

The County will recognize and implement fair and open competitive tenets per public procurement procedures for these services should a Contractor be selected. The County encourages participation by minority and women owned businesses and will request evidence of such classification and/or attempt to engage such companies/firms within the proposal's package.

The County requires that the proposals include a statement of compliance with respect to conformity with the State of North Carolina labor laws and regulations, ordinances and other legal requirements. During the performance of this contract, the Contractor shall not tolerate or engage in discriminatory practices with its contractors or subcontractors. Discriminatory practices shall include biases based upon age, race, color, sex, religion, national origin, mental or physical challenges, marital status, and creed.

501 Proposal Format

Proposer shall submit ten (10) copies of the proposal including one Proposal marked "Original" which includes all documents with original signatures.

Proposals may be submitted in one or more volumes, as necessary, with all information bound in three-ring binders, except as noted. The proposals shall meet the following requirements:

- The cover of each volume shall include the volume number, as necessary, title, name of Proposer, and the submittal date.
- Proposal shall include a table of contents with clearly marked page numbers and appendix, as necessary, throughout the proposal.

502 Payment Bond

Each proposal must be accompanied by one of the following forms of bidder security:

1. Cashier's check made payable to the County of Haywood
2. Certified check made payable to the County of Haywood
3. Bidder's bond executed by an authorized surety company

Said security shall be equal to five (5) percent cumulative total of all payments to be made to Proposer by the County during the first twelve (12) months of the initial term of this agreement. Said bid security shall be forfeited to the County as liquidated damages should the successful proposer fail to enter into contract in accordance with this proposal. Unsuccessful proposers will have their security returned fifteen (15) days after the contract has been properly executed. The successful proper security will be retained until the required performance bond and insurance certificates have been provided and the contract has been executed and approved.

503 Interpretation of Request For Proposals

Any person contemplating the submission of a Proposal shall have thoroughly examined all of the various parts of the RFP.

503 Proposer's Understanding

Before submitting a Proposal, Proposers shall fully examine and read the RFP. They shall visit the County facilities and fully inform themselves of all conditions on, in, at and around the Landfill. All Proposers will be responsible for familiarizing themselves with all specifications, contract documents, drawings, conditions and limitations. Failure to do so will not relieve the successful Proposer of their obligation to enter into a Contract and to completely perform the Contract in strict accordance with the RFP.

504 Inquiries & Interpretation of Request For Proposals

Any person contemplating the submission of a Proposal shall have thoroughly examined all of the various parts of the RFP.

If there is any doubt as to the meaning or intent of the RFP, the Proposer shall request in writing an interpretation thereof. Such request shall be delivered to Mr. David B. Cotton, Haywood County Manager, and shall be submitted in writing at least five (5) calendar days prior to the proposal submittal.

Any interpretation of the proposed documents will be made only by duly issued written Addendum and a copy of such Addendum will be mailed or delivered to each person receiving a set of Proposal Specifications. Each Proposer shall acknowledge receipt of each

Addendum received in order to have his Proposal duly considered. County will not be responsible for explanations or interpretations of the Contract Document other than written.

SECTION 6 EVALUATION OF PROPOSALS

600 Evaluation and Selection Process

All proposals submitted on time will be reviewed and considered. The County will interview those firms whose proposals are responsive to the Request for Proposals. Selection will be based upon, but not limited to, the following considerations:

- Responsiveness to this Request For Proposals
- Expertise of key project team
- Prior experience of same type of project
- Contractor's coverage of work performed (comprehensiveness)
- Prior experience with local governments and community constituents
- Organization, size and structure of Contractor
- Qualification of Contractor's key personnel
- References
- Financial strength/responsibility and performance history, including compliance history
- Cost/Economic factors
- Permitting history and experience
- Potential for regionalization
- Identification and specification of performance guarantees

NOTE: **This a request for a proposal. The County reserves the right to reject all proposals and/or to select the Contractor based on any or all factors.**

SECTION 7 PROPOSED GENERAL CONTRACT TERMS AND CONDITIONS

700 Introduction

The following are the proposed general provisions of the contract to be entered unto with the Proposer who is awarded the Contract under this RFP. Before execution, the County and the Proposer may concur to vary the terms of this Contract.

701 Definitions

701.01 "Active Landfill Face" shall mean the sloped area of the daily cell where the solid waste (as defined herein) is deposited into the Landfill to be worked, compacted, and covered.

701.02 "Addenda" shall mean any written or graphic modification or interpretation of the contract documents issued by the County prior to the proposal openings.

701.03 "Calendar Days" shall mean every day shown on the calendar, Sundays and holidays included. Unless otherwise designated, days as used in the Contract Documents will be understood to mean calendar days.

701.04 "Change Order" shall mean a written agreement between the Owner and Contractor, covering changes in the scope of the Contract, and establishing the basis of payment and time adjustments, if any, for the work affected by the changes.

701.05 "Contract" or "Contract Documents" shall include the following documents, and this Contract does hereby expressly incorporate such documents herein as if fully set forth verbatim in this Contract:

- (A) Invitation for Bids
- (B) General Information & Proposal Instructions
- (C) Bid Proposal
- (D) Bid Surety
- (E) Contract Agreement
- (F) Payment Bond
- (G) Performance Bond/Letter of Credit
- (H) Certificates of Insurance
- (I) Notice of Award
- (J) Notice to Proceed
- (K) General Order(s)
- (L) General Conditions
- (M) Operation and Compliance Specifications
- (N) Design & Construction Drawings
- (O) Addenda

701.06 "Contractor" shall mean the person, firm, or corporation, which is awarded the contract and satisfactorily executes the same.

701.07 "County" shall mean the County of Haywood, a political subdivision of the State of North Carolina. Used interchangeably with "Owner."

701.08 "County Chairman" shall mean the person who chairs the Haywood County Board of Commissioners.

701.09 "Cover" or "Cover Material" shall mean any soil used to cover the "Solid Waste" or "Special Waste" disposed of at the Landfill.

701.10 "Design and Construction Drawings" shall mean all design, details and construction drawings that pertain to this Contract.

701.11 "Equipment" shall mean all dozers, graders, front loaders, scraper, and any other grading, spreading or compacting equipment.

701.12 "Existing Landfill" shall mean the existing solid waste landfill known as the Haywood County Municipal Solid Waste Landfill, which is operating under the landfill permit number 44-07.

701.13 "Hazardous Waste" shall mean but is not limited to following:

- (i) any waste that is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" pursuant to any state or federal law, including but not limited to, the Resource Conservation and Recovery Act, 42 USC 6901, et seq. as amended and the regulations promulgated thereunder; or
- (ii) Any waste that contains radioactive material, the storage or disposal of which is subject to state or federal regulation.

701.14 "Infectious Medical Waste" shall mean waste resulting from medical procedures, which may cause or is capable of causing disease, such as,

- (i) Biological waste, including blood and blood products, excretions, exudates, secretions, and other bodily fluids that cannot be directly discarded into a municipal sewer system, including solid or liquid waste from renal dialysis and waste materials reasonably contaminated with blood or body fluids; or
- (ii) Cultures and stocks and etiologic agents and associated biological specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures; wastes from production of biological and serums and discarded live and attenuated vaccines. Cultures under this subsection do not include throat and urine cultures; or
- (iii) Sharps that have been removed from their original sterile containers, including needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes.

701.15 "Inspector" shall mean an authorized representative of the County assigned to inspect the work performed or being performed by the Contractor.

701.16 "New Landfill" shall mean the Haywood County Municipal Solid Waste Landfill, Phase III, which includes the proposed legal boundaries located on State Road 1338 in the White Oak Community of the County, permit number SNL 44-07.

701.17 "Notice to Proceed" shall mean a written notice to the Contractor showing the date he can begin prosecution of the work under the Contract.

701.18 "Permit" shall mean the permit number 44-07 issued by NCDENR for the operation of the Landfill and permit number 44-08 for operation of the transfer station.

701.19 "Solid Waste Committee" shall mean the committee comprised of County Commissioners and administrative staff to oversee solid waste issues in the County, including the operation of the Landfill.

701.20 "Solid Waste" shall mean (i) all waste defined as solid waste by the Solid Waste Disposal Act or regulations promulgated thereunder and (ii) all waste defined as solid waste by NCDENR having jurisdiction over solid waste generated within such state, except that the term solid waste:

- a. is intended to mean and include only those substances, which are normally expected to be disposed of by employing generally accepted sanitary landfill disposal methods;
- b. shall exclude Hazardous Waste and Bio-Medical Waste;
- c. shall exclude radioactive waste; and
- d. shall be construed to have the narrower, less expansive definition where there exists a conflict in the definitions employed by two or more governmental agencies having concurrent or overlapping jurisdiction over solid waste generated within the State of North Carolina.

701.21 "Special Waste" shall mean. Solid Wastes that require special handling and management including white goods, whole tires, used oil, lead-acid batteries, and medical wastes, as allowed by N.C. Gen. Stat. § 130A-290(a)(40). For purposes of this agreement, the term also includes asbestos, storm debris, Disaster Debris, C&D Waste, Alternative Daily Cover, ashes, sludge, animal manure, residue from incineration, food processing wastes, dredging wastes,

tires, industrial waste managed in an on-site, generator-owned facility and solid wastes from mining or agricultural operations and such other wastes as may be allowed by applicable Environmental Laws, as may be amended or modified from time to time.

701.22 "SWDA" shall mean the Solid Waste Disposal Act (42 USC 3251) as amended, including the Resource Conservation and Recovery Act of 1976 (42 USC 6901) and all future amendments thereto.

701.23 "Tipping Area" shall mean the area in which vehicles approach the active landfill face from the access/haul road and dispose of solid waste into the Landfill. The tipping area is generally an area comprised of 250 feet or greater in length times the width of the Active Landfill Face.

701.24 "Unacceptable Waste" shall mean but is not limited to "Infectious Medical Waste", "Hazardous Waste", yard trash, compost material, liquid wastes, PCB wastes, Banned Wastes per N. C. Gen. Stat. §130A – 309.10(F), and any friable asbestos not properly bagged and marked.

701.25 "Vicinity Map" shall mean the map that shows the Landfill property boundary and the solid waste disposal limits.

702 Indemnity

1. Contractor agrees to indemnify, hold harmless, and defend Owner, its affiliates, and their respective officers, members, employees and agents ("Owner Indemnified Parties") from and against any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which the Owner Indemnified Parties may hereafter incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, or any violation of governmental laws, regulations or orders caused by Contractor's performance or failure to perform its obligations under the provisions of this Agreement by reason of any negligent or willful act or omission of Contractor, its employees, agents or servants in the performance of this Agreement.
2. Contractor agrees to be responsible for operating compliance with all Permits, and shall be responsible for additional major capital expenditures (such as ponds, wells, etc.) associated with the remediation of past actions unless Owner and Contractor agree in writing otherwise. Contractor shall provide financial responsibility/financial assurance for the Existing Landfill in accord with all federal, state and local requirements and the negotiated terms of this agreement.

County hereby reserves all rights to develop and use/sell or otherwise reap any landfill gas proceeds in a separate contract to be the subject of a future RFP and negotiation. Contractor may respond to any RFP for this future landfill gas project.

3. The Contractor will indemnify and hold harmless the County, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, orders, (including consent and clean-up orders) and expenses (including engineer and attorney fees) arising from personal injury, including death or disease, and property damage, including environmental contamination, to the extent resulting from the willful misconduct, negligent acts, or omissions of the Contractor, its officers, agents, servants, employees incident to performance under this contract.

703 Performance Bond/Letter of Credit

In order to provide security for the performance by Contractor of its obligations hereunder, the Contractor shall provide or establish any one or a combination of the following: (a) Irrevocable Letter of Credit or (b) the Performance Bond.

1. Letter of Credit.
In the event the Contractor delivers an irrevocable Letter of Credit, such Letter of Credit shall be for a minimum of one (1) year. The Letter of Credit shall be in an amount to be agreed upon by the parties hereto.

Such Letter of Credit shall be in form and content which is reasonably acceptable to the Owner, and shall be issued by a bank or financial institution having a credit rating for its long-term debt of at least "A", or the equivalent thereof, from a nationally recognized credit rating agency. Such Letter of Credit shall be delivered to the Owner's escrow agent on the Contract Date.

2. Performance Bond.
Contractor agrees that, upon execution of the Contract and before beginning work, it shall make, execute and deliver to the Escrow Agent a good and sufficient surety bond, in a form approved by Owner, to secure the faithful performance of the terms and conditions herein. Such bond shall be in an amount to be agreed upon by the parties hereto, and signed by the president or general officer of Contractor together with the signature of the corporate secretary and corporate seal. The Surety shall be a surety company duly authorized to do business in the State of North Carolina and acceptable to the County.
3. Environmental Insurance Policy

Contractor will pursue purchase of an environmental insurance policy to cover any environmental spills releases or long-term remediation resulting from operation of the Existing and Future solid waste management assets pursuant to this Contract (see below).

704 Insurance

Contractor agrees at all times during this contract to maintain in full force and effect the insurance coverage and liability limits set forth below:

<u>Coverage</u>	<u>Limits of Liability</u>
Worker's Compensation	\$ 500,000
Employer's Liability	\$ 1,000,000
General Liability	\$2,000,000 each occurrence
Automobile Liability	\$2,000,000 each occurrence
Excess Umbrella Liability Insurance	\$4,000,000
Pollution Liability Insurance	\$20,000,000

Before commencement of work hereunder, Contractor agrees to furnish to the Owner certificates of insurance to the effect that such insurance has been procured and is in force. Such certificate of insurance shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner. The insurance policies set forth above shall name Owner as additional insured.

705 Compliance with Laws

Subject to the terms and conditions of this contract, Contractor agrees that in performance of the work herein provided, it will qualify under and comply with federal, state, and local laws and ordinances now in force, and which may hereafter during the term of this Contract be passed and become effective, which are applicable to Contractor and its employees performing such work.

706 Assignment

This Contract is assignable by a party, including by operation of law, only upon written consent of the County and subject to such consent, shall be binding upon, and inure to the benefit of, the assignor's successors and assigns.

707 Default and/or Termination of Contract

If the Contractor:

1. Fails to begin the work under the Contract within the same time specified in the "Notice to Proceed."
2. Fails to perform the work with sufficient workers and equipment or with sufficient materials to assure the prompt execution of the work.
3. Fails to perform the work suitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable.
4. Discontinues the prosecution of work.
5. Fails to resume work, which has been discontinued within a reasonable time after notice to do so.
6. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency.
7. Makes an assignment for the benefit of creditors.

Alternatively, if any other causes whatsoever, fails to carry on the work in an acceptable manner the County will give notice to the Contractor as follows:

- (1) A verbal notification from the County to the Contractor (documented by the County) that one or more of the above infractions have occurred.
- (2) A written notification from the County stating the infraction(s), as were given in the verbal notification, and that such infractions not be corrected within 10 days the County will proceed to take full power and authority from the Contractor for Default of the Contractor. A copy of such notification shall be sent to the Contractor's Surety.
- (3) If the Contractor or Surety, within a period of ten (10) days after such notice, does not proceed in accordance therewith, then the County will, upon written notification from the County of the fact of such delay, neglect or default and the Contractor's failure to comply with such notice, have full power and

authority without violating the Contract, to take the prosecution of the work out of the hands of the Contractor.

SECTION 8 SCOPE OF WORK

The Proposer must agree to furnish all labor, equipment and materials to develop and operate the Landfill in compliance with all federal, state and local laws, ordinances and regulations, including the rules and regulations of the EPA and NCDENR.

800 Operations - Existing Landfill

- Spreading and compacting of solid waste
- Excavating, hauling, spreading and compacting of cover material
- Surveying
- Soil and erosion compliance
- Engineering and site analysis
- Control of site access and traffic control
- Scalehouse activity
- Groundwater and surface water monitoring
- Litter control
- Dust control
- Fire control
- Odor control
- Equipment maintenance
- Billing and collecting of user fees
- Recordkeeping and reporting
- Quality control
- Hazardous and infectious waste screening
- Upgrades/expansions/modifications
- Financial Responsibility
- Leachate control and disposal
- Landfill gas monitoring
- Certifying of scales

801 Development, Construction and Operations - New Landfill

- Project financing
- Design and engineering
- Hydrogeological and permitting issues
- Cell excavation and construction
- Third-party quality assurance and control

Closure
Methane gas monitoring
Operations (as listed above)

SECTION 9 CONTROL OF WORK

900 Closure and Post-Closure Care

900.01 Closure and Post-Closure Care - Existing Landfill

The Contractor shall be responsible for the closure and all post-closure care requirements at the Existing Landfill, including financial assurance requirements under federal, state or local laws.

900.02 Closure and Post-Closure Care – New Landfill

The Contractor shall be responsible for the closure and all post-closure care requirements at the New Landfill, including financial assurance requirements under federal, state or local laws.

901 Contractor's Responsibilities

900.01 Permits, Licenses & Approvals.

The Contractor shall be responsible for obtaining and maintaining, at its expense, all permits, licenses and approvals from appropriate governmental agencies as necessary for construction and operation of the New Landfill.

901.02 Landfill Construction.

The Contractor will be solely responsible for the future development and construction of the New Landfill, and will supply the necessary equipment, labor, materials, and engineering services to develop and construct the New Landfill in accordance with EPA and NCDENR regulations.

901.03 Landfill Operation and Management.

The Contractor will be responsible for all operations, management and maintenance of the Existing and New Landfill Cells including:

- a. Routine operation engineering
- b. Surveying
- c. Ground and surface water monitoring
- d. Preventive equipment maintenance

- e. Scale house activities
- f. Hazardous and infectious waste screening
- g. Erection & maintenance of facilities
- h. Controlling access to the Landfill
- i. Leachate collection and transportation
- j. Convenience center services
- k. On-site waste reduction services, as requested/materials recovery
- l. Public information
- m. Board meeting assistance
- n. Recordkeeping and reporting
- o. Response to agency inspections/requests for information/enforcement actions
- p. Penalties
- q. Attorney/Consultant/Subcontractor engagement for laboratory services, enforcement response, legal representation, emergency response
- r. Emergency response actions and costs, including fire suppression
- s. Compliance, safety, personnel training, emergency response, and contingency planning
- t. Ensuring economically viable operation of the solid waste management services such that Contractor is not responsible for causing County's costs to increase
- u. Compliance with federal, state, and local solid waste management requirements and assisting County in those requirements applicable to the County as Owner/Permittee, such as waste reduction, recycling, certifying of sales, landfill gas monitoring and planning requirements more specifically set forth in RFP

901.04 Closure of the New Landfill

The Contractor shall be responsible for closure of the New Landfill during the term and at the end of the Contract period.

901.05 Landfill Customer Billing.

The Contractor shall be responsible for collecting all disposal charges payable by all persons and companies, including the County, if included in the proposal, for use of the Landfill, and for keeping auditable records to ensure proper accounting to the County for all receipts,

901.06 Meetings

The Solid Waste Committee and Contractor's representatives shall meet regularly to review operations, areas designated for filling activities, and any other subject the County deems appropriate.

901.07 Utilities.

The Contractor shall be responsible for providing all necessary utilities to the Landfill including water, electricity and telephone lines.

SECTION 10
PROSECUTION & PROGRESS

1000 Contractor's Employees

The Contractor shall employ only such superintendents, supervisors and workers who are careful, competent, and fully qualified to perform the duties or tasks assigned to them, including the operation of equipment, and shall dismiss any person or persons, employed by the Contractor, who in performance of the work, engage in misconduct, or are incompetent, dishonest, or neglectful in the proper performance of his or her duties, or who neglect or refuse to comply with or carry out the directions of the Contractor. Contractor's superintendents must:

1. Work at the Landfill full-time;
2. Within six months of contract execution must have attended the Solid Waste Association of North America's Manager of Landfill Operations Certification Program.

Contractor's employees shall be required to wear a clean uniform bearing the Contractor's name. Such employees shall additionally bear some means of individual identification as a name tag or identification card. At no time shall a Contractor's employee in any way identify or represent him/herself as an employee of the County.

Contractor will offer employment to qualified Existing Landfill employees.

1001 Improvements

The Contractor may permit and construct, at his sole expense, such structures as he may desire for an office and/or the storage and servicing of equipment used in the performance of this Contract. Any such structures erected on the Landfill shall remain the property of the Contractor as long as the Contract is in force. Upon expiration of the Contract, the Contractor may remove any such structure, provided that any damage caused by removal shall be repaired by the Contractor at his expense. Any improvements remaining on the Landfill sixty (60) days after expiration of this Contract shall be deemed abandoned and shall become the property of the County. All permitting costs will be the Contractor's sole responsibility.

1002 Failure to Perform

In the event that the Contractor shall fail to dispose of solid waste in accordance with the terms of this Contract, provided the failure is not due to an event of force majeure, County may, at its option and after written notice to Contractor as provided herein, terminate the Contract.

1003 Commencement of Operation

The Contractor shall commence operation of the Landfill in accordance with this Contract on the date given in the Notice to Proceed.

Depending on the date of Contract Execution, the County will give notice to commence daily operations based on the following considerations:

1. The County will allow a seven (7) calendar day period for the Contractor to "move in" to a designated "staging" area adjacent to the landfill work site at which time the minimum amount of equipment designated for execution of daily operations shall be on site.
2. The County will allow for an additional seven (7) calendar day period for the Contractor to make last-minute provisions to assure readiness to commence construction and operation.
3. There is an anticipated lapse of two (2) calendar days to fourteen (14) calendar days (approximations) between the execution date of the contract agreement and the day the Contractor commenced daily operations.
4. Payment for work under this contract will commence on the date set for commencing daily operations. Payment for a time period less than one (1) month will be made at a daily rate calculated by the number of tons disposed of at the Landfill. Payment shall be scheduled in a manner as provided herein.

SECTION 11 PAYMENT

1100 Fees

It is the County's intention to create a revenue stream from the successful Contractor in response to this RFP, which will continue for the life of the landfill required by the terms of this RFP to be a minimum of 20 years. The Contractor's proposal may consider a franchise fee and host fee arrangement and a disposal agreement with the County whereby the county's costs/fees per ton are defrayed or replaced in the event a regional approach to the proposal response is contemplated; however, the Contractor will assess the County and all other users of the transfer station and/or landfill a fee per ton during the term of the agreement for the operations and construction activities described above to maintain compliance with the current permits and to perform required services under the current permits.

1101 Change in the Operating Cost/Fees

The franchise and host fees and/or compensation payable to the County by the Contractor for the second and subsequent years of the term hereof shall be adjusted to reflect changes in the cost of doing business, as measured by fluctuations in the Consumer Price Index (CPI) for all urban consumers - United States as published by the Department of Labor, Bureau of Labor Statistics. Additionally, similar provisions will be included in the contract to periodically review and adjust any remaining fees which may be paid by County to the Contractor for certain services per this Contract.

SECTION 12 OPERATION & COMPLIANCE SPECIFICATIONS

1200 Specifications for Operation of Landfill

The following operational standards and summation of design factors, which are applicable to daily, as well as long-term waste disposal operation and management requirements shall apply specifically to the Haywood County Municipal Solid Waste Landfill site.

1201 Waste Flow and Hours of Operation

Once the Landfill is closed each day to the general public, the Contractor must provide the necessary services and equipment until all the waste has been adequately covered, per all applicable federal, state and local regulations and the requirements of the landfill permit.

Contractor shall receive solid waste from 7:30 a.m. until 3:30 p.m. daily, Monday through Saturday. The Landfill will be closed on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Contractor shall, however, operate at the Landfill during such other hours as may be necessary to comply with the provisions of this Contract and in compliance with applicable federal, state, and local laws and rules.

1202 Acceptance of Acceptable Waste

The Contractor shall operate the Landfill to receive regular deliveries of acceptable waste for a minimum of eight (8) hours each of 6 operating days per week, from compactor-type vehicles, large dump trucks, private citizen vehicles and other vehicle types approved by the County. The Proposer shall accept all waste, which is delivered to the Landfill, except waste, which is Unacceptable Waste as defined in this document, or so specified in the future.

1203 Waste Screening

The Contractor shall provide inspection procedures, which at a minimum shall include the following:

- (i) Waste shall be visually inspected as it is being tipped. Visual inspection shall be done by at least one person, whose duty is to monitor the tipping of waste. A communication device shall be provided that will allow communication between the inspector and the equipment operator;
- (ii) The Contractor shall randomly select loads of waste delivered to the Landfill each day. The hauler shall be required to wait for the inspector to finish manually searching through the waste;
- (iii) Records will be kept for each load physically inspected, and for any instances when unacceptable waste has been delivered to or found on the site. These records shall include, at a minimum, time, date, name of hauling firm, name of driver, source of waste, vehicle identification numbers, type and quantity of waste found and any other observations made by the inspector. the inspector and the hauler will both sign the record form to verify that the waste has been inspected or found delivered by the named hauler.
- (iv) The Contractor shall require the hauler to remove and properly dispose of unacceptable waste from the Landfill immediately and in a manner which minimizes contamination of the Landfill.

1204 Traffic Control

The Contractor shall have the responsibility for proper traffic control upon entering and exiting the Landfill.

1205 Security

The Contractor is responsible for 24-hour site security, 365-days a year, to ensure no unauthorized site entry and/or facility misuse.

1206 Weighing and Billing

The operation of the weighing system located at the scale house will be the responsibility of the Contractor. Maintenance of the scale house structures and the provision of janitorial

services will be the responsibility of the Contractor. The scales must at all times be properly certified.

The Contractor will be responsible for the operation of the weighing system, and for admitting public, commercial haulers and industrial accounts into the facility. The Contractor will be responsible billing and collecting fees from Landfill users.

1207 Buildings

Buildings shall be maintained in good condition at all times. The Contractor shall be responsible for inspection, lubrication, adjustment, repair and maintenance of all building systems (including scale house) to include, but not necessarily be limited to, plumbing, sumps, degreasers, fixtures; heating, ventilating, and air conditioning systems, components, and devices; fire and dust suppression systems; radio communications equipment.

1208 Roadways

Contractor shall be responsible for the construction and maintenance of all-weather roads running in and over the Landfill. Maintenance shall include but not limited to grading, watering and snow removal. Watering for dust control will occur as needed.

Contractor will be responsible for painting and maintaining traffic directions lines on the roadways (including staging and storage area).

1209 Litter Control and Burning

Measures shall be provided to control blowing litter. The entire site shall be cleaned of litter every day of operation or more frequently as needed. Contractor will provide portable litter screens and is required to keep these portable screens in a position to limit the blowing material from the Landfill. The Contractor shall erect such additional temporary or permanent fences, or take such measures as may be necessary to control the blowing of litter.

Burning for litter control and other reason is prohibited unless the Contractor obtains a burn permit from the necessary local fire authorities. No burning will be permitted in or around the Landfill.

1210 Surface Drainage

Due to the configuration of the side slopes, surface runoff flowing from above the working level must be directed around the perimeter of the area being filled. To accomplish this, the top of the working level shall be sloped toward either one or both side slopes at a minimum of two percent (2%) and not to exceed five percent (5%) grade.

1211 Salvage

The County retains all salvage rights. No salvage operations will be permitted at the Active Face. At the County's discretion, recycling operations and composting may take place away from the active areas in accordance with a recycling plan, if any, adopted by the County and approved by NCDENR.

1212 Accidental Fires/Fire Control

The Contractor shall have all primary responsibility for all fire control at the Landfill. In the event a fire should occur, he shall immediately close that section of the Landfill and notify the proper authorities. He shall make available all available employees and equipment and shall continue to control the fire with maximum effort until officially relieved by proper fire authorities.

All reasonable precautions, such as separation of "special wastes" and early removal of excavation of "hot spots", shall be taken to prevent accidental ignition or spontaneous combustion of solid wastes within the Landfill. Water, stockpiled earth, or other means shall be available to extinguish such fires as may occur.

Each piece of Contractor's equipment working on the fill shall be equipped with a fire extinguisher and all employees shall be familiar with their operation.

1213 Signage

The Contractor shall provide and maintain signs to direct and control Landfill traffic at the working face and within the Landfill as well as signs regarding unacceptable wastes, hours of operation, and any other verbiage regarding acceptable waste disposal practices and rules at the Landfill.

1214 Recycling

The County currently operates a Materials Recovery Facility (MRF) in Haywood County and has a contract for hauling. The County has an interim agreement with an out-of-state recycler for ultimate management of its recyclables. These MRF operations and contracts

will be maintained and complied with and any Contractor will operate in accord with such existing terms.