

CITY OF WILMINGTON

Invitation To Bid

BID NAME: **YARD WASTE GRINDING & DISPOSAL SERVICES**

BID NUMBER: **S10-0120**

DUE DATE **MARCH 24, 2020 by 3:00 PM**

SUBMIT BIDS TO: PURCHASING DIVISION
P. O. BOX 1810
305 CHESTNUT ST., 5th Floor
WILMINGTON, N. C. 28401
910-341-7886
EMAIL: jennifer.goley@wilmingtonnc.gov

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

EMAIL ADDRESS: _____

GENERAL SPECIFICATIONS & INSTRUCTIONS TO BIDDERS

Scope

It is the intent of this Invitation to Bid No. S10-0120 to obtain bids for services required to accept, weigh, grind and haul vegetative and/or wood yard waste collected within the City limits by the City of Wilmington. Scope includes other yard waste generated by the City by normal operations such as Recycling @ Trash Services, Landscaping, Parks, Storm Water and Streets, as City requires. You are requested to submit your bid on the enclosed Bid Sheet and return the entire package to Jennifer Goley, Buyer, City of Wilmington, Post Office Box 1810, 305 Chestnut St., Floor 5, Wilmington, North Carolina 28401. Email address to forward bids is Jennifer.goley@wilmingtonnc.gov. Bids must be received no later than March 24, 2020 by 3:00 pm.

Contacts

Contact Rick Porter (910) 341-0081, Superintendent, Recycling & Trash Services, with any questions concerning the scope of this contract.

Marking of Envelopes

Bids must be contained in a sealed envelope, plainly marked, showing the name, Invitation to Bid number, date, time (if time is specified) and the bidder's name. Any company submitting a "No Bid" in response to an Invitation to Bid should clearly mark the outside of the envelope.

Late Bids Will Not Be Considered

Bids received after the due date and time will not be considered.

Compliance with Specifications

Your bid must be in strict compliance with the specifications and offer the same services as requested in the Invitation to Bid.

Price Corrections

All prices and notations shall be written in ink or typed. Changes or corrections made on the bid form must be made by striking through instead of using a liquid cover product and initialed by the individual signing the bid page. No corrections will be permitted once bids have been opened.

Withdrawal of Bids

Bids may be withdrawn at any time prior to the due date and time specified upon written or personal request of the bidder. No quote may be withdrawn for a period of thirty (30) days after the scheduled opening time (if the time is specified) and date. Negligence on the part of the bidder shall not constitute a right to withdraw the quote after the bids have been opened.

Rejection of Bids

The City reserves the right to reject any and all bids.

Offer

CONTRACTOR is to provide a single price proposal that encompasses the entirety of the described scope of services.

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 this invitation.

Taxes

The City of Wilmington is exempt from and will not pay federal taxes. An exemption certificate will be furnished upon request. North Carolina and local sales tax shall be shown as a separate item. Sales tax will not be a consideration in the award.

Terms and Conditions

Payment will be made by the City of Wilmington within 30 days after receipt of an approved invoice.

Terms and Conditions attached to the bid by the bidder may render the bid non-responsive and may be rejected by the City of Wilmington.

Terms and Conditions included herein are an integral part of the contract document and shall prevail unless changes or attachments are agreed to and initialed by the City of Wilmington prior to the due date and time of the opening of the Bids.

Validity of Bids

Bids shall remain open and valid for a period of ninety (90) days from the due date specified in the Invitation to Bid.

YARD WASTE GRINDING & DISPOSAL
SERVICES SPECIFIC REQUIREMENTS
S10-0120

1. General Requirements

The City of Wilmington is seeking proposals from qualified vegetation and wood processors to accept, weigh, grind, store and haul vegetative wood yard waste collected within the City limits by the City of Wilmington. The scope includes yard waste generated by the CITY by normal operations such as Recycling & Trash Services, Landscaping, Parks, Storm Water, and Streets, etc. as City requires. The volume of material may be adjusted and the subsequent fee will be based on the unit price in the CONTRACTOR'S proposal.

2. Specific Requirements

- (a) CONTRACTOR agrees this is not an exclusive contract, and the City may deliver any material directly to the New Hanover County Landfill or any site that is permitted in accordance with this agreement with no consideration to the Contractor.
- (b) CONTRACTOR is required to accept, weigh, grind, store and haul yard waste collected within the City limits by the City of Wilmington and other yard waste generated by the CITY by normal operations such as Solid Waste collection, Landscaping, Parks, Storm Water, and Streets, etc. as City requires.
- (c) "CONTRACTOR'S Processing Site" shall mean the site(s) where the grinding operation is to take place. Such site(s) shall have all necessary permits to accept and process the estimated quantity and material identified in the contract. This site(s) shall be specifically identified in the bid document. The Contractor's Processing Site shall not be changed during the term of the contract.
- (d) "Grind" shall mean the processing of the wood and yard waste. Evidence of proper permitting for the CONTRACTOR'S yard waste facility must be received by the City prior to the award of the contract.
- (e) "Material" shall mean all yard waste and other material which is part of this contract.
- (f) CONTRACTOR shall mean the firm with which the city enters into the contract for services referenced herein.
- (g) During the period of this contract, the CONTRACTOR and the CITY may negotiate and agree in writing to provide additional services not herein described, but that are commonly provided by high-quality professional service providers of this type, which may enhance the service process and improve the results.
- (h) "CONTRACTOR'S Yard Waste Acceptance Site" shall mean the site identified in the bid where the City is to deliver the material. This site shall be specifically identified in the bid document. If different from the Contractor's Processing Site, the Contractor's Yard Waste Acceptance Site, shall have all necessary permits to accept the estimated quantity of material identified in the bid. The Contractor's Yard Waste Acceptance Site shall not be changed during the term of the contract.
- (i) The CONTRACTOR'S Yard Waste Acceptance Site and CONTRACTOR'S Processing Site must be of sufficient size, include certified truck scales, and all equipment capable of grinding the delivered quantity of material on a regular basis. A copy of the Permits shall be submitted with the Bid. Bidders shall submit a

statement that all sites used in the acceptance and processing of materials referenced in the bid are properly permitted by all North Carolina agencies having jurisdiction over this service.

- (j) "Permits" shall mean all required permits for the operations identified herein as required by any and all agencies or regulatory bodies within the state of North Carolina. A copy of all permits shall be submitted with the bid documents.
- (k) The material will be delivered to the CONTRACTOR'S Yard Waste Acceptance Site by the City of Wilmington vehicles. The City may elect to contract with vegetative hauling-handling contractors for yard waste delivery to CONTRACTOR'S Yard Waste Acceptance Site.
- (l) CONTRACTOR agrees not to fine City should the debris from Solid Waste operations contain a de minimis amount of non-vegetative debris, for example, bottles, cans, etc.
- (m) The CITY's Solid Waste Ordinances at Chapter 10, Section 10.1 defines hazardous waste as "Material such as cleaning fluids, crankcase oils, cutting oils, paints, solvents, explosives, acids, caustics, poisons, drugs, chemical pesticides, radioactive products, infections or infected materials, offal, fecal matter and any other material of similar nature." The CONTRACTOR has the right to refuse hazardous materials as defined by CITY Ordinance.
- (n) The CONTRACTOR will accept all ground material at no charge, providing 100% of the load is ground and contains no un-ground material or debris subject to Paragraph 2(d).

3. Contractor Submissions and Payment

- (a) The CONTRACTOR shall provide the City vehicle driver with a weight ticket showing the gross and tare weight and vehicle number. The weigh ticket must be signed by the driver and a copy given to the driver.
- (b) Copies of the weight tickets must accompany the monthly invoice. Invoices will be separated into three parts. The first part will identify all debris delivered to the CONTRACTOR by the Storm Water Operations Group, the second part will identify all debris delivered by the Parks Operation Group and the third part will identify all debris from Recycling & Trash Services Division and any other City of Wilmington Operations. The invoice should be mailed to Superintendent of Solid Waste, P. O. Box 1810, Wilmington, N.C. 28402. Payment shall be made based on the per ton charge set forth in the CONTRACTOR'S proposal.
- (c) The invoice must contain an itemized list of weight tickets including the vehicle number of each truck, which crossed the CONTRACTOR'S State of NC certified scale.

4. Time for Performance

The CONTRACTOR must accept yard waste at the Contractor's Yard Waste Acceptance Site Monday through Friday from 8:00 a.m. to 5:00 p.m. CONTRACTOR is not required to be open on the following City holidays: Christmas Day, Thanksgiving Day, 4th of July or New Years Day.

5. Award

The City of Wilmington will award this contract to the lowest responsible bidder for the total amount, including processing and hauling of the City collected yard waste from the Recycling & Trash services Division, vegetative waste/debris from City Stormwater, Parks and Tree maintenance activities. Evaluation of the "Lowest responsible bidder" shall include the cost incurred by the City to haul material to the proposed processing site. The evaluation of "Cost" shall include an evaluation of round trip mileage, including fuel and maintenance costs, to the proposed processing site from the geographic center of the City of Wilmington. The "Center" of the City of Wilmington is

defined as the intersection of South College Road and Oleander Drive.

6. Quantities

The CITY makes no guarantee as to the quantities that the CONTRACTOR may receive. In FY19, the City Operations produced approximately 14,000 tons of vegetative debris. The volume of material may be adjusted and the subsequent fee will be based on the unit price in the CONTRACTOR'S proposal.

7. Offer:

Provide a single price proposal that encompasses the entirety of the described scope of services.

Note: "Contractor's Yard Waste Acceptance Site" shall mean the site identified in the bid where the City is to deliver the material. This is the site that will be used in the evaluation of total costs to the City. This site must be available for the entire term of the contract.

8. In case of an emergency, such as a hurricane, bidder must provide a narrative indicating procedures to ensure adequate acreage and grinding capabilities to process the yard waste generated by such an event. The narrative must include location, size and owner of any proposed alternate processing sites or equipment.

The undersigned hereby certifies that this Bid is made without prior understanding, agreement, or connection with any person(s), firm(s) or corporation(s) making quotes or Bids. The bidder further certifies that (s)he is not suspended or debarred from bidding by any federal, state, or local agency and that, if awarded this contract, he will abide by all specifications, provisions and conditions contained in the Invitation to Bid.

CONTRACT FOR SERVICES

THIS CONTRACT, made and entered into this the ____ day of _____, 20____, by and between the CITY OF WILMINGTON, NORTH CAROLINA, a municipal corporation organized under the laws of the State of North Carolina (hereinafter called "CITY"), and [Company], a corporation organized under the laws of the State of North Carolina, having its principal place of office in _____, _____; hereinafter called "CONTRACTOR."

WITNESSETH:1. Purpose of Contract

The CITY hereby agrees to purchase the services listed below from the CONTRACTOR, during the period July 1, 2020 through June 30, 2023 and CONTRACTOR agrees to provide the services so listed to CITY as ordered during the said period in accordance with the provisions of this contract. CONTRACTOR'S proposal dated together with the general specifications and proposal sheets outlined in the bid invitation dated, and all other portions of the bid invitation so dated are considered part of this contract and are incorporated into this contract.

2. Scope of Services

- (a) CONTRACTOR agrees this is not an exclusive contract, and the City may deliver any material directly to the New Hanover County Landfill or any site that is permitted in accordance with this agreement with no consideration to the Contractor.
- (b) CONTRACTOR is required to accept, weigh, grind, store and haul yard waste collected within the City limits by the City of Wilmington and other yard waste generated by the CITY by normal operations such as Solid Waste collection, Landscaping, Parks, Storm Water, and Streets, etc. as City requires.
- (c) "CONTRACTOR'S Processing Site" shall mean the site(s) where the grinding operation is to take place. Such site(s) shall have all necessary permits to accept and process the estimated quantity and material identified in the contract. This site(s) shall be specifically identified in the bid document. The Contractor's Processing Site shall not be changed during the term of the contract.
- (d) "Grind" shall mean the processing of the wood and yard waste. Evidence of proper permitting for the CONTRACTOR'S yard waste facility must be received by the City prior to the award of the contract.
- (e) "Material" shall mean all yard waste and other material which is part of this contract.
- (f) CONTRACTOR shall mean the firm with which the city enters into the contract for services

referenced herein.

- (g) During the period of this contract, the CONTRACTOR and the CITY may negotiate and agree in writing to provide additional services not herein described, but that are commonly provided by high-quality professional service providers of this type, which may enhance the service process and improve the results.
- (h) "CONTRACTOR'S Yard Waste Acceptance Site" shall mean the site identified in the bid where the City is to deliver the material. This site shall be specifically identified in the bid document. If different from the Contractor's Processing Site, the Contractor's Yard Waste Acceptance Site, shall have all necessary permits to accept the estimated quantity of material identified in the bid. The Contractor's Yard Waste Acceptance
The site shall not be changed during the term of the contract.
- (i) The CONTRACTOR'S Yard Waste Acceptance Site and CONTRACTOR'S Processing Site must be of sufficient size, include certified truck scales, and all equipment capable of grinding the delivered quantity of material on a regular basis. A copy of the Permits shall be submitted with the Bid. Bidders shall submit a statement that all sites used in the acceptance and processing of materials referenced in the bid are properly permitted by all North Carolina agencies having jurisdiction over this service.
- (j) "Permits" shall mean all required permits for the operations identified herein as required by any and all agencies or regulatory bodies within the state of North Carolina. A copy of all permits shall be submitted with the bid documents.
- (k) The material will be delivered to the CONTRACTOR'S Yard Waste Acceptance Site by the City of Wilmington vehicles. The City may elect to contract with vegetative hauling-handling contractors for yard waste delivery to CONTRACTOR'S Yard Waste Acceptance Site.
- (l) CONTRACTOR agrees not to fine City should the debris from Solid Waste operations contain a de minimis amount of non-vegetative debris, for example, bottles, cans, etc.
- (m) The CITY's Solid Waste Ordinances at Chapter 10, Section 10.1 defines hazardous waste as "Material such as cleaning fluids, crankcase oils, cutting oils, paints, solvents, explosives, acids, caustics, poisons, drugs, chemical pesticides, radioactive products, infections or infected materials, offal, fecal matter and any other material of similar nature." The CONTRACTOR has the right to refuse hazardous materials as defined by CITY Ordinance.
- (n) The CONTRACTOR will accept all ground material at no charge, providing 100% of the load is ground and contains no un-ground material or debris subject to Paragraph 2(d).

3. Contractor Submissions and Payment

- (a) The CONTRACTOR shall provide the City vehicle driver with a weight ticket showing the gross and tare weight and vehicle number. The weigh ticket must be signed by the driver and a copy given to the driver.
- (b) Copies of the weight tickets must accompany the monthly invoice. Invoices will be separated into three parts. The first part will identify all debris delivered to the CONTRACTOR by the Storm Water Operations Group, the second part will identify all debris delivered by the Parks Operation Group and the third part will identify all debris from Recycling & Trash Services Division and any other City of Wilmington Operations. The invoice should be mailed to Superintendent of Solid Waste, P. O. Box

1810, Wilmington, N.C. 28402. Payment shall be made based on the per ton charge set forth in the CONTRACTOR'S proposal.

(c) The invoice must contain an itemized list of weight tickets including the vehicle number of each truck, which crossed the CONTRACTOR'S State of NC certified scale.

4. Time for Performance

The CONTRACTOR must accept yard waste at the Contractor's Yard Waste Acceptance Site Monday through Friday from 8:00 a.m. to 5:00 p.m. CONTRACTOR is not required to be open on the following City holidays: Christmas Day, Thanksgiving Day, 4th of July or New Years Day.

5. Term of Contract

(a) The initial term of this contract shall extend from July 1, 2020 through June 30, 2023.

(b) This contract may be extended for two (2) additional years in one year increments with the mutual consent of both parties in writing.

(c) In the event that any work, service, object, or value, contemplated within the Scope of Work of the Agreement, was provided by the CONTRACTOR to the CITY and with the CITY's consent, prior to the execution of this agreement, then the terms of this agreement shall also govern all aspects of provision of that work, service, object, or value, unless such provision was governed by a previously written, valid, and executed Agreement between the Parties.

6. City Obligations

(a) CITY CONTACTS: the individuals listed below have been designated as the Officials responsible for communicating with the CONTRACTOR for the purpose of contract administration, including but not limited to: conducting inspections on services performed, arranging for a mutually agreeable work schedule, ordering any special goods or services, reviewing and approving invoices, reporting and resolving problems, etc. During the period of performance, these officials and/or their designees will make themselves available to the CONTRACTOR via business/cell phones and email.

Sterling B. Cheatham, City Manager
City of Wilmington
P.O. Box 1810
Wilmington, NC 28402-1810

Cc: Rick Porter, MBA MESH
City of Wilmington, Public Services Department
235 Operations Center Dr | PO Box 1810
Wilmington, NC 28402-1810
Ph: 910-341-0081 | Fx: 910-790-2391
Email: rick.porter@wilmingtonnc.gov

7. Quantities. The CITY makes no guarantee as to the quantities that the CONTRACTOR may receive.

8. Release and Indemnity

To the fullest extent permitted by law, CONTRACTOR shall release, indemnify, keep and save harmless the CITY, its agents, officials and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials or employees of the CITY or third persons, and to all property proximately caused by, directly or indirectly, the performance or nonperformance by CONTRACTOR (or by any person acting for CONTRACTOR or for whom CONTRACTOR is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of CONTRACTOR, its agents, officials and employees or otherwise. The provisions of this Section shall include any claims for equitable relief or for damages (compensatory or punitive) against the CITY, its agents, officials, and employees including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, costs and expenses. Expenses as used herein shall include without limitation the costs incurred by the CITY, its agents, officials and employees, in connection with investigating any claim or defending any action, and shall also include reasonable attorneys' fees by reason of the assertion of any such claim against the CITY, its agents, officials or employees. CONTRACTOR expressly understands and agrees that any performance bond or insurance protection required by this agreement, or otherwise provided by the CONTRACTOR, shall in no way limit CONTRACTOR's responsibility to release, indemnify, keep and save harmless and defend the CITY as herein provided. The intention of the parties is to apply and construe broadly in favor of the CITY the foregoing provisions subject to the limitations, if any, set forth in N.C.G.S. § 22B-1.

9. Personnel

It is mutually agreed that the CONTRACTOR is an independent contractor and not an agent of the CITY, and as such the CONTRACTOR shall not be entitled to any CITY employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen's compensation, or pension and retirement benefits.

10. Conflict of Interest

No paid employee of the CITY shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this contract.

11. Non-Waiver of Rights

It is agreed that the CITY'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.

12. Suspension or Termination of Contract

(a) In the event that review of the CONTRACTOR'S performance shows non-conformance to the work required by this contract, the Scope of Services or other terms or conditions contained herein as a result of the CONTRACTOR'S errors, omissions or negligent acts, the CONTRACTOR shall be in breach of this contract and the CITY may take corrective action as it deems necessary including, but not limited to, termination, withholding or reduction of payment.

(b) The CITY shall also have the right to suspend this contract upon written notice to the CONTRACTOR. Such written notice shall state the reasons for suspension and allow for a review period of ten (10) days during which the CONTRACTOR shall be provided with an opportunity to respond with an explanation or justification, and/or shall undertake any reasonable remedial action required by the CITY. If, in the opinion of the CITY, the CONTRACTOR remains in violation of this contract at the

completion of the ten (10) day suspension period, the CITY shall have the right to terminate this contract whereupon all obligations of the CITY to the CONTRACTOR shall cease.

(c) In the event this project is terminated prior to completion of the services by the CONTRACTOR, the CONTRACTOR shall be paid for services performed to the date of termination. (CONTRACTOR shall be paid for all reimbursable expenses, without markup, which are due him.)

(d) The CITY and the CONTRACTOR shall have the right to terminate this contract without cause upon a thirty (30) day notice to the other party.

(e) Nothing contained herein shall prevent the CITY from pursuing any other remedy, which it may have against CONTRACTOR including claims for damages.

13. Assignment of Agreement

It is mutually agreed by the parties hereto that this contract is not transferable by either party without the written consent of the other party to this contract.

13. Contract Disputes

In accordance with N.C.G.S. § 143-128.1(8) the parties agree to mediate contract disputes in excess of \$15,000.00. Within ten (10) days of such contract disputes, the parties shall select a mediator that is certified pursuant to all of the parties involved in the dispute. If the parties cannot agree on a mediator or do not timely select a mediator, the CITY shall select the mediator. The parties and the mediator shall agree upon the mediator's rate of compensation. The parties to the dispute shall share in the payment of the mediator's compensation with the CITY paying a minimum of one-third of the compensation if the CITY is a party to the dispute.

14. Insurance Requirements

Before commencing any work, the CONTRACTOR shall procure insurance in the CONTRACTOR'S name and maintain all insurance policies for the duration of the contract of the types and in the amounts listed. The insurance shall provide coverage against claims for injuries to persons or damages to property which may arise from operations or in connection with the performance of the work hereunder by the CONTRACTOR, his agents, representatives, employees, or subcontractors, whether such operations by himself/herself or anyone directly or indirectly employed by him/her.

(a) COMMERCIAL GENERAL LIABILITY.

(1) CONTRACTOR shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability insurance with a total limit of not less than \$1,000,000.00 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.

(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).

(3) The City of Wilmington, its officers, officials, agents, and employees are to be covered as additional insureds during and until completion of the work, under the CGL by endorsement CG 20 10 or an endorsement providing equivalent coverage as respects to liability arising out of activities

performed by or on behalf of the CONTRACTOR; premises owned, leased or used by the CONTRACTOR; and under the commercial umbrella, if any. The coverage shall contain no special limitations on the scope of protection afforded to the City of Wilmington, its officers, officials, agents, and employees. Additional insured status for both ongoing and completed operations, in favor of City of Wilmington, its officers, officials, agents and employees, will be carried by Subcontractor performing installation.

(4) There shall be no endorsement or modification of the CGL or Umbrella Liability limiting the scope of coverage for liability arising from explosion, collapse, underground property damage, or damage to the named insured's work, when those exposures exist.

(5) The CONTRACTOR'S Commercial General Liability insurance shall be primary as respects the City of Wilmington, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by the City of Wilmington, its officers, officials, and employees shall be excess of and not contribute with the CONTRACTOR'S insurance.

(6) The insurer shall agree to waive all rights of subrogation against the City of Wilmington, its officers, officials, agents and employees for losses arising from work performed by the CONTRACTOR for the City of Wilmington.

(b) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.

(1) CONTRACTOR shall maintain Workers' Compensation as required by the general statutes of the State of North Carolina and Employer's Liability Insurance.

(2) The Employer's Liability, and if necessary, Commercial Umbrella Liability insurance shall not be less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit.

(3) The insurer shall agree to waive all rights of subrogation against the City of Wilmington, its officers, officials, and employees for losses arising from work performed by the CONTRACTOR for the City of Wilmington.

(c) BUSINESS AUTO LIABILITY.

(1) CONTRACTOR shall maintain Business Auto Liability and, if necessary, Commercial Umbrella Liability insurance with a limit of not less than \$1,000,000 each accident.

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

(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.

(4) Pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached when those exposures exist.

(5) The CONTRACTOR'S Business Auto Liability insurance shall be primary as respects the City of Wilmington, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by the City of Wilmington, its officers, officials, and employees shall be excess of and not contribute with the CONTRACTOR'S insurance.

(6) CONTRACTOR waives all rights against the City of Wilmington, its officers, officials, agents and employees for recovery of damages to the extent these damage are covered by the business auto liability or commercial umbrella liability insurance obtained by CONTRACTOR pursuant to Section 11.C.1 of this agreement.

(d) DEDUCTIBLES AND SELF-INSURED RETENTIONS.

The contractor shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not the City of Wilmington is an insured under the policy.

(e) MISCELLANEOUS INSURANCE PROVISIONS.

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

(1) 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 the City of Wilmington, PO Box 1810, Wilmington, NC 28402-1810.

(2) 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.

(f) 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 specific approval has been granted by the City of Wilmington.

(g) EVIDENCE OF INSURANCE.

(1) The CONTRACTOR shall furnish the City of Wilmington 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.

(2) Evidence of additional insured status shall be noted on the certificate of insurance.

(3) With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to the City of Wilmington 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.

(h) SUBCONTRACTORS.

CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. Commercial General Liability coverage shall include independent CONTRACTORS' coverage, and the CONTRACTOR shall be responsible for assuring that all subcontractors are properly insured. Additional insured status for both ongoing and completed operations, in favor of City of Wilmington, its officer, officials, agents and employees, will be carried by Subcontractor performing installation.

(i) CONDITIONS.

- (1) The insurance required for this contract must be on forms acceptable to the City of Wilmington.
- (2) The CONTRACTOR shall provide that the insurance contributing to satisfaction of insurance requirements in shall not be canceled, terminated or modified by the CONTRACTOR without prior written approval of the City of Wilmington.
- (3) The CONTRACTOR shall promptly notify the Safety & Risk Manager at (910) 341-5864 of any accidents arising in the course of operations under the contract causing bodily injury or property damage.
- (4) Failure of the City of Wilmington to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of the City of Wilmington to identify a deficiency from evidence that is provided shall not be construed as a waiver of CONTRACTOR'S obligation to maintain such insurance.
- (5) By requiring insurance herein, the City of Wilmington does not represent that coverage and limits will necessarily be adequate to protect the CONTRACTOR and such coverage and limits shall not be deemed as a limitation of CONTRACTOR'S liability under the indemnities granted to the City of Wilmington in this contract.
- (6) The City of Wilmington 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 the City of Wilmington.

15. Findings Confidential

All of the information, reports, cost estimates, plans, specifications and documents prepared or assembled by the CONTRACTOR under this contract are the property of the CITY. The CONTRACTOR agrees that any such documents shall not be made available to any individual or organization other than appropriate CITY officials without prior written approval of the CITY. Nothing contained in this paragraph shall be construed to prevent the CONTRACTOR from making information, reports and documents available to those individuals or firms directly concerned with the project involved with prior written agreement of the CITY.

16. No Presumption.

None of the Parties shall be considered the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof. This Agreement was drafted with substantial input by all Parties and their counsel, and no reliance was placed on any representations other than those contained herein.

17. Subcontracts

The CONTRACTOR shall utilize no subcontracts for carrying out the services to be performed under this contract without the written approval of the CITY.

18. Entire Agreement

This agreement constitutes the entire understanding of the parties.

19. Binding Effect

This contract shall be binding upon the heirs, successors, assigns, agents, officials, employees, independent contractors, and subcontractors of the parties.

20. Continuing Obligation

The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the agreement.

21. Reference

Use of the masculine includes feminine and neuter, singular includes plural; and captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope of intent of the contract.

22. Interpretation

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard.

23. Interpretation/Governing Law

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina without regard to any conflicts of law principles and subject to the exclusive jurisdiction of federal or state courts within the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard. The place of this Agreement, its situs and forum, shall be Wilmington, New Hanover County, North Carolina, and in said County and State shall all matters, whether sounding in contract or tort relating to the validity, construction, interpretation or enforcement of this Agreement be determined.

24. Minority Business Enterprise (MBE) The CITY desires that minority business enterprises have the maximum opportunity to participate in the performance of this contract and will:

(a) Promote affirmatively (where feasible) in accordance with North Carolina General Statute 143-129, together with all other applicable laws, statutes and constitutional provisions the procurement of goods, services in connection with construction projects for minority owned business enterprises.

(b) Ensure that competitive and equitable bidding opportunities are followed to afford minority business enterprises participation. Strive to obtain contract and subcontract awards to minority business enterprises.

(c) Identify and communicate to the minority business enterprises community procedures and contract requirements necessary for procurement of goods and services for construction projects and subcontracts.

(d) Provide technical assistance as needed.

(e) Promulgate and enforce contractual requirements that the general contractor on all construction projects shall exercise all necessary and reasonable steps to ensure that minority business enterprises participate in the work required in such construction contracts.

(f) The CONTRACTOR shall ensure that minority business enterprises have the maximum opportunity to compete for and perform portions of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. The CONTRACTOR shall include this special provision, Minority Business Enterprise (MBE), in all subcontracts for this contract. Failure on the part of the CONTRACTOR to carry out the requirements set forth in this special provision may constitute a breach of contract and after proper notification may result in termination of the contract or other appropriate remedy.

A minority business enterprise is defined as a business, with at least fifty one (51%) percent owned and controlled by minority group members. The minority ownership must exercise actual day-to-day management. Minority group members may consist of Black Americans (an individual of the Black race of African origin), Hispanic Americans (an individual of a Spanish speaking culture and origin at parentage), Asian Americans (an individual of a culture, origin or parentage traceable to the areas of the Far East, Southeast Asia, the Indian subcontinent and the Pacific Islands), Indian Americans (an individual who is an enrolled member of a Federally recognized Indian tribe, or recognized by the tribe as being an Indian, as evidenced by a certification of a tribal leader), American Aleuts or any recognized minority group approved by the CITY.

A Woman Business Enterprise is a business with at least fifty one (51%) percent owned and controlled by women who exercise actual day-to-day management.

The CONTRACTOR shall exercise all necessary and reasonable steps to ensure that Minority Business Enterprises and Woman Business Enterprises participate in the work required in this contract. The CONTRACTOR agrees by executing this contract that he will exercise all necessary and reasonable steps to ensure that this special provision contained herein on Minority Business Enterprise is in compliance.

25. Immunity Not Waived

This contract is governmental in nature for the benefit of the public and is not intended to be for private profit or gain. Any fees charged hereunder are intended to reflect as closely as possible the CITY'S actual cost and neither party intends to waive its sovereign immunity by reason of this contract.

26. Saving Clause

If any section, subsection, paragraph, sentence, clause, phrase or portion of this contract is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

27. Other Laws and Regulations

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

having jurisdiction, to ensure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued thereunder. CONTRACTOR specifically acknowledges and agrees that CONTRACTOR, and any subcontractors it uses, has complied with and shall continue to comply with the provisions of the federal E-Verify program in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes. CONTRACTOR shall maintain adequate safeguards with respect to sensitive customer information in conformance with and pursuant to 16 C.F.R. § 681.1 and in accordance with N.C.G.S. § 132-1.10 and § 75-65.

28. Amendments

This contract shall not be modified or otherwise amended except in writing signed by the parties.

29. Non-Discrimination

CONTRACTOR will take affirmative action not to discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the benefits of the program which is the subject of this contract because of race, creed, color, sex, age, disability or national origin. To the extent applicable, CONTRACTOR will comply with all provisions of Executive Order No. 11246 the Civil Rights Act of 1964, (P.L. 88-352) and 1968 (P.L. 90-284), and all applicable federal, state and local laws, ordinances, rules, regulations, orders, instructions, designations and other directives promulgated to prohibit discrimination. Violation of this provision, after notice, shall be a material breach of this contract and may result, at CITY'S option, in a termination or suspension of this contract in whole or in part.

30. Non-Appropriations Clause

In the event no CITY funds or insufficient CITY funds are appropriated or otherwise available by any means whatsoever in any fiscal year for any payment due under this Agreement, then the CITY will immediately notify CONTRACTOR of such occurrence and this Agreement shall create no further obligation of the CITY as to such fiscal year and shall be null and void, except as to the portions of payments for which funds shall have been appropriated and budgeted. In such event, this Agreement shall terminate on the last day of the fiscal year for which appropriations were received without penalty or expense to the CITY of any kind whatsoever.

31. Counterparts

This Agreement may be executed in several counterparts, including separate counterparts. Each shall be an original, but all of them together constitute the same instrument.

32. No Publicity

No advertising, sales promotion or other materials of the CONTRACTOR or its agents or representations may identify or reference this Contract or the CITY in any manner absent the written consent of the CITY. Notwithstanding the forgoing, the parties agree that the CONTRACTOR may list the CITY as a reference in responses to requests for proposals, and may identify the CITY as a customer in presentations to potential customers.

33. CITY Not Liable For Special or Consequential Damages

The CITY shall not be liable to the CONTRACTOR, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the CITY, or any other consequential, indirect or special damages or lost profits related to this Contract.

34. Public Records

CONTRACTOR acknowledges that the CITY is a public entity, subject to North Carolina's public records laws (N.C.G.S. § 132) and that any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request or to subpoena or other judicial process.

If CONTRACTOR believes documents related to the Agreement contain trade secrets or other proprietary data, CONTRACTOR must notify the CITY and include with the notification a statement that explains and supports CONTRACTOR'S claim. CONTRACTOR also must specifically identify the trade secrets or other proprietary data that CONTRACTOR believes should remain confidential.

In the event the CITY determines it is legally required to disclose pursuant to law any documents or information CONTRACTOR deems confidential trade secrets or proprietary data, the CITY, to the extent possible, will provide CONTRACTOR with prompt written notice by certified mail, fax, email, or other method that tracks delivery status of the requirement to disclose the information so CONTRACTOR may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The notice will include a time period for CONTRACTOR to seek court ordered protection or other legal remedies as deemed appropriate by CONTRACTOR. If CONTRACTOR does not obtain such court ordered protection by the expiration of said time period, the CITY may release the information without further notice to CONTRACTOR.

35. Authority to Act/IDA Certification

Each of the persons executing this Agreement on behalf of CONTRACTOR does hereby covenant, warrant and represent that the CONTRACTOR is a duly organized and validly existing legal entity authorized to transact business within the State of North Carolina, that the CONTRACTOR has full right and authority to enter into this Agreement, and that each and all persons signing on behalf of the CONTRACTOR were authorized to do so. The undersigned certifies that CONTRACTOR is not listed on the Final Divestment List created by the N.C. State Treasurer pursuant to Chapter 147 (the Iran Divestment Act) of the North Carolina General Statutes. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 147, CONTRACTOR shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the CITY has caused this contract to be duly executed in its name and behalf and the CONTRACTOR has caused this contract to be duly executed in its name and behalf.

CITY OF WILMINGTON, NORTH CAROLINA

BY: _____
Sterling B. Cheatham, City Manager

DATE: _____

WITNESS:

Daryle L. Parker, Purchasing Manager

APPROVED AS TO FORM:

Melissa I. Huffman, Assistant City Attorney

FINANCE OFFICER'S CERTIFICATION STATEMENT

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.

This ____ day of _____, 20____.

Jennifer R. Maready, Finance Director

Project Account _____

Org _____ Obj _____ Project _____

Amount \$ _____

Requisition/PO Number: _____

Federal ID Number: 56-6000239

[Company]

By: _____
President/Vice President, Secretary, Treasurer

WITNESS:

Secretary, Assist. Secretary, Trust Officer

[CORPORATE SEAL]

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that the corporation's Secretary, Assist. Secretary or Trust Officer, Mr./Mrs./Ms. _____ personally came before me this day and acknowledged that he (she) is the _____ of _____, a Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, Vice President, or Assist. Vice President, Mr./Mrs./Ms. _____, sealed with its Corporate Seal, and attested by himself (herself) as its Secretary, Assist. Secretary or Trust Officer.

WITNESS my hand and official seal this the _____ day of _____, 2020.

Notary Public

My Commission Expires: _____

[SEAL]

INSURANCE CERTIFICATES

(Staple Insurance Certificates here, as required in Section 14. of the Contract.)

BID
YARD WASTE WOOD GRINDING &
DISPOSAL SERVICES –CITYWIDE
S12-0210

Bid Due: March 24, 2020 at 3:00 p.m.

1. **Scope of Services.** The CONTRACTOR will provide yard waste wood grinding & hauling services to the City of Wilmington. The scope of services include grinding of City collected yard waste from the Solid Waste Division, vegetative waste/debris from City Stormwater, Parks and Tree maintenance activities delivered to the successful bidder's yard waste acceptance site and hauling of ground product to the New Hanover County Landfill.

2. **Certification.** The undersigned hereby certifies that this bid is made without prior understanding, agreement or connection with any person (s), FIRM(S) OR CORPORATION(S) MAKING BIDS OR PROPOSALS. The bidder further certifies that he is not suspended or debarred from bidding by any federal, state, or local agency and that, if awarded this contract; he will abide by all specifications, provisions, and conditions contained in the bid invitation. The undersigned further certifies that the contractor's Yard Waste Acceptance Site and the Contractor 's Processing Site are property permitted by any and all North Carolina agencies having jurisdiction over such services.

3. **Award.** The City of Wilmington will award this contract to the lowest responsible bidder for the total amount, including processing and hauling of the City collected yard waste from the Recycling & Trash services Division, vegetative waste/debris from City Stormwater, Parks and Tree maintenance activities. Evaluation of the "Lowest responsible bidder" shall include the cost incurred by the City to haul material to the proposed processing site. The evaluation of "Cost" shall include an evaluation of round trip mileage, including fuel and maintenance costs, to the proposed processing site from the geographic center of the City of Wilmington. The "Center" of the City of Wilmington is defined as the intersection of South College Road and Oleander Drive.

4. **Offer.**

(a) Provide a single price proposal that encompasses the entirety of the described scope of services.

(b) My company will perform the services required by this REQUEST FOR PROPOSAL for the following price:

Rate per ton: \$ _____

Bidder must answer the following questions: Failure to complete the following will cause the bid to be rejected.

1. List the location, owner, address & telephone number of the Contractor's Yard Waste Acceptance Site where the City is to deliver the material.

Attach copies of permits for the Contractor's Yard Waste Acceptance Site.

2. List the location, owner, address & telephone number of the Contractor's Processing Site.

Attach copies of permits for the Contractor's Processing Site.

3. Bidder will utilize its own equipment for processing yard waste at the Contractor's Processing Site.
Yes _____ No _____

If no, list owner and specific equipment not owned by Bidder.

4. Bidder will subcontract all or part of this work.

Yes _____ No _____

If yes, list a specific portion of work to be subcontracted, the percentage of the work to be subcontracted and the subcontractor.

5. List all equipment to be utilized on this contract.

6. Contractor's Yard Waste Acceptance Site has _____ acres of permitted land available.

7. Contractor's Processing Site has _____ acres of permitted land available.

Note: "Contractor's Yard Waste Acceptance Site" shall mean the site identified in the bid where the City is to deliver the material. This is the site that will be used in the evaluation of total costs to the City. This site must be available for the entire term of the contract.

8. In case of an emergency, such as a hurricane, bidder must provide a narrative indicating procedures to ensure adequate acreage and grinding capabilities to process the yard waste generated by such an event.

The narrative must include location, size and owner of any proposed alternate processing sites or equipment.

The undersigned hereby certifies that this Bid is made without prior understanding, agreement, or connection with any person(s), firm(s) or corporation(s) making quotes or Bids. The bidder further certifies that (s)he is not suspended or debarred from bidding by any federal, state, or local agency and that, if awarded this contract, he will abide by all specifications, provisions and conditions contained in the Invitation to Bid.

Submitted by (signature) _____

Print Name & Title: _____

Company: _____

Address: _____

Phone: _____

Email: _____