



Robert C. Edwards
Mayor

Susie Walters
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head
Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

M. Renée Cahoon
Commissioner

John Ratzenberger
Commissioner

Marvin Demers
Commissioner

PILOT PROJECT AGREEMENT

NORTH CAROLINA
DARE COUNTY

SERVICE CONTRACT
PURCHASE ORDER # _____

THIS CONTRACT IS NOT VALID WITHOUT THE REQUIRED ACCOMPANYING/ CORRESPONDING
PURCHASE ORDER

(Contractor initials)

THIS CONTRACT is made and entered into this the ____ day of _____, 2015 by and between the TOWN OF NAGS HEAD, a public body corporate of the State of North Carolina, (hereinafter referred to as "the TOWN") party of the first part and Bay Disposal, Inc. d/b/a Outer Banks Hauling, (hereinafter referred to as "CONTRACTOR"), party of the second part.

1. SERVICES TO BE PROVIDED AND AGREED CHARGES

The services and/or material to be furnished under this contract (hereinafter referred to collectively as "SERVICES") and agreed charges are as follows:

The CONTRACTOR shall provide the personnel, equipment, materials and other such appurtenances as may be required to:

(a) On a weekly basis collect commingled recyclable materials within the "Pilot Project" limits of Nags Head on the same day as regular refuse collection or as determined by the TOWN Manager, including, but not limited to, old newsprint, clear and colored glass, aluminum beverage containers, tin cans, steel cans, bi-metal cans, #1 and #2 plastics, magazines, phonebooks, corrugated cardboard, pressboard, paperboard and junk mail from the contractual customers. Holiday collections will be coordinated with the TOWN Manager.

(1) The CONTRACTOR will be responsible for all recyclables collected in accordance with this Contract. No more than 5% by weight of all recyclable materials are to be land filled and/or incinerated without the express, written permission of the TOWN Manager.

- (b) Transport recyclable materials after collection to a materials recovery facility or any recyclable materials handling and disposition facility other than an incinerator or a landfill.
- (c) Make monthly reports to the TOWN Manager detailing weight and constituents of materials collected and their processing or final disposal.
- (d) Be responsible for removing carts from Nags Head streets to participating dwelling units prior to emergency situations.
- (e) Be responsible for developing a route to ensure service of all customers and cart locations within the "pilot project" area.
- (f) Be solely responsible for stolen carts owned by the CONTRACTOR.

2. Payment for Services.

- (a) As compensation for performing the services required under this contract, the TOWN will pay CONTRACTOR the sum of \$4.82 per container per month. The TOWN will be responsible for collecting any fees from the property owner. CONTRACTOR shall not charge to nor collect any fees from owners for services provided under this Contract.
- (b) All revenues received by the CONTRACTOR from the sale of recyclable materials collected by the CONTRACTOR shall become the property of the franchisee.

3. Term of Contract

It is mutually agreed by and between the TOWN and CONTRACTOR that services under this contract will be performed under a "pilot project" for the months of July, August and September 2013 and for the month of June, 2014 and commence no later than July 2, 2013. The contract completion date shall be ~~September 30, 2015. If CONTRACTOR fails to complete work under this contract, payments will be due only for those services actually provided under this Contract.~~

Deleted: June 24, 2014

Formatted: Font color: Red

Notwithstanding provisions of this Section 3 to the contrary, the following shall survive the termination of this CONTRACT: any provision in Section 1 regarding liquidated damages; the provisions of Section 6 regarding indemnity; and the provisions of Section 9.

4. PAYMENT TO CONTRACTOR

The TOWN agrees to pay at the rates specified for SERVICES satisfactorily performed in accordance with this contract. Unless otherwise specified, the CONTRACTOR shall submit an itemized invoice to the TOWN by the end of the month in which SERVICES are completed. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice. Payment shall not exceed \$17,000.

5. INDEPENDENT CONTRACTOR

Both the TOWN and the CONTRACTOR agree that the CONTRACTOR shall act as an independent CONTRACTOR and shall not represent itself as an agent or employee of the TOWN for any purpose in the performance of the CONTRACTOR'S duties under this contract. Accordingly, the CONTRACTOR shall be responsible for payment of all Federal, State and local taxes arising out of the CONTRACTOR'S activities in accordance with this contract, including by way of illustration by not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as required.

In performing the SERVICES, the CONTRACTOR is acting as an independent CONTRACTOR and shall perform SERVICES in accordance with currently approved methods and practice in the CONTRACTOR'S professional capacity and in accordance with the standards of applicable professional organizations and licensing agencies.

6. INSURANCE AND INDEMNITY

The CONTRACTOR shall indemnify and save harmless the TOWN, its agents and employees from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the TOWN or which the TOWN must pay and incur by reason of or in any manner resulting from injury, loss or damage to persons or property resulting from negligent performance of or failure to perform any of its obligations under the terms of this CONTRACT.

The CONTRACTOR shall be fully responsible to the TOWN for the acts and omissions of its sub-CONTRACTORS and of persons either directly or indirectly employed by it, as the CONTRACTOR is for the acts and omissions of persons directly employed by it.

In addition, the CONTRACTOR shall comply with the North Carolina Worker's Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event the CONTRACTOR is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, the CONTRACTOR shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents during the performance of SERVICES.

The CONTRACTOR agrees to furnish the TOWN proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

The CONTRACTOR upon request by the TOWN shall furnish a Certificate of Insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the TOWN verifying the existence of any insurance coverage required by the TOWN. The Certificate will provide for sixty (60) days advance notice in the event of termination or cancellation of coverage.

7. HEALTH AND SAFETY

The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees from the work and other persons who may be affected thereby.

8. NON-DISCRIMINATION IN EMPLOYMENT

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, sex, race, creed, or national origin. In the event the CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be cancelled, terminated or suspended in whole or in part by the TOWN, and the CONTRACTOR may be declared ineligible for further contracts.

9. GOVERNING LAW

This contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this contract shall be brought in the General Court of Justice of the State of North Carolina or in the Federal District Court for the Eastern District of North Carolina.

10. OTHER PROVISIONS

This Contract is subject to such additional provisions as are set forth in any addendum executed separately by each party and attached hereto.

11. CONTRACT DOCUMENTS/AMENDMENTS

This document together with the purchase order and any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto. In the event of any conflict between this contract and any attached documents, the contract language will prevail.

12. SIGNATURES

Both the TOWN and the CONTRACTOR agree to the above contract.

TOWN OF NAGS HEAD

Witnessed or Attested By:

By: _____

Title: Town Manager

Date: _____

CONTRACTOR

Witnessed or Attested By:

Corporate Seal:

By: _____

Printed Name: _____

Title: _____

Date: _____

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

Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

TOWN ATTORNEY

