

REQUEST FOR PROPOSALS
FOR
CURBSIDE TRASH & RECYCLING COLLECTION
IN COROLLA
CURRITUCK, NORTH CAROLINA

Distributed May 28, 2013



REQUEST FOR PROPOSALS CURBSIDE TRASH & RECYCLING COLLECTION IN COROLLA CURRITUCK, NORTH CAROLINA

Proposals must be received by June 21, 2013, by 2:00 P.M.

I. Request For Proposal

The County of Currituck (hereafter, "the Owner"), through this Request for Proposals ("RFP") from an established professional residential trash and recycling firm (hereafter, "the Offeror"), hereby request submission of proposals for the following:

1. Scheduled collection and proper disposal of trash and recyclables in Corolla, North Carolina (hereafter, "Curbside Service"). Oct 1 through April 30 – trash and recyclables collected once per week, May 1 through September 30 – trash and recyclables collected twice per week. Bulk pickup service is to be provided as is yard waste collection.

The purpose of the Service is to cleanly and efficiently collect trash and recyclables from approximately 3,700 – 3,800 residences in Corolla, North Carolina, on a regularly scheduled basis and properly dispose of the material in a safe and environmentally responsible manner.

The current schedule is: October 1 through April 30 – trash and recycling collected on Wednesdays; May 1 through September 30 – trash collected Wednesdays and Saturdays and recycling is collected Saturdays. Bulk item pickup and yard waste collection occurs year round as owners and property management companies call in the request for pickup of bulk items. Once the request for bulk pickup is made, the bulk pickup service takes place on the next scheduled collection day.

Material banned from landfills by NCGS must be handled separately (yard waste, white goods) and delivered to the Currituck County Transfer Station for processing by the County.

Corolla is home to approximately 450 full-time, year round residents. Between Memorial Day and Labor Day, the population increases substantially with 50,000 to 60,000 visitors per week.

II. Service Description

Collection and disposal of residential trash and recycling in Corolla, North Carolina as follows: Once per week from October 1 through April 30; twice per week from May 1 through September 30. Trash, white goods and yard waste will be delivered to the Currituck County Transfer station, 216 Airport Road, Maple, North Carolina, unless otherwise directed by the County. Recyclables will be delivered to Bay Disposal's facility located at 8546 Caratoke Hwy (US 158), Powells Point, North Carolina 27966.

Pickup of Bulky items and yard waste will continue year-round on the next scheduled collection day as requested from property owners and property management companies. Items banned from landfills (yard waste and white goods, to name two) will be separated and delivered to the Currituck County Transfer Station for processing by the County.

The County is to be provided a monthly and an annual report of tonnages collected for trash and recycling (separated).

The Contractor selected for this Service Agreement will be required to have a local customer service office with a local or 800 number for customers to contact with service requests and complaints. The Contractor's customer service office shall be available to customers Monday through Saturday 8:00 a.m. to 5:00 p.m. Eastern time.

The Contractor selected for this Service Agreement shall supply specifications of acceptable containers compatible with Contractor's collection equipment, rates that will be charged customers for additional containers and whether containers may be purchased from Contractor or rented from Contractor (or both).

III. General Description of Proposal Submittal, Evaluation and Selection Process

The Owner contemplates that the proposal submittal, evaluation, and selection process will essentially be as follows: The Offeror shall submit a proposal, the contents of which are described in this RFP. Offeror should carefully follow all the instructions in this RFP to ensure that its proposals are considered to be eligible. The Owner will review the proposals and evaluate them in accordance with the evaluation criteria established herein. The Owner may ask the Offeror(s), individually or collectively, for clarifications or further information, may check references and other information, may meet individually with the Offeror(s). At its own discretion the Owner may request oral presentations, or it may base its evaluations on the proposals as submitted and if deemed necessary and conduct negotiations. The Owner will then decide which Service Agreement or Agreements best serves the public interest and will take action to enter into such an agreement or agreements. Award of the contract will be to the Offeror that submits the best value proposal per the evaluation criteria.

IV. Criteria To Be Used In Evaluating Proposals

The Technical and Financial selection criteria used to evaluate the proposals are defined in Section VI, Instructions to Offeror on Proposal Submission. The evaluation criteria are as follows:

- A. Technical Criteria: 60%
 - 1. Experience and qualifications of the service firms, key individuals, as well as previous experience working in similar service environments (50%).
 - 2. Compliance with all federal, state and local laws, ordinances and environmental agencies, service description, scope of services, and terms & conditions of the full RFP (50%).
- B. Financial Criteria: 40%
 - 1. Cost Proposal

V. Terms and Conditions of this Request for Proposal

The following terms and conditions apply to this RFP, and by submitting its proposal, the Offeror agrees to them without exception:

- A. Neither this RFP nor the Owner's consideration of any proposal shall create any contract, express or implied any contractual obligation by the Owner to any Offeror, or any other obligation by the Owner to any Offeror. The Owner makes no promise, express or implied,

regarding whether it will enter into a Service Contract with any Offeror or regarding the manner in which it will consider proposals.

- B. The Owner will not be responsible for any expenses incurred by an Offeror in preparing and submitting a proposal, or in engaging in oral presentations, discussions, or negotiations.
- C. Offeror submitting a proposal in response to this RFP may be required to make an oral presentation or oral presentations of their proposal to the County at their own expense. The Owner may request the presence of Offeror(s) representative(s) at these presentations. The Owner will schedule the time and location for these presentations. By submitting its proposal, the Offeror agrees to make these representatives reasonably available to the County of Currituck, and acknowledges that the failure to do so may result in the proposal not being considered.
- D. The Owner reserves the right to waive any informality with respect to any proposal submitted in response to this RFP.
- E. The Owner reserves the right to accept or reject any and all proposals received by reason of this request, in whole or in part, and to negotiate separately in any manner necessary to serve the best interests of the Owner.
- F. Any confidential and proprietary information provided to the Owner by the Offeror pursuant to this RFP shall be subject to disclosure under the North Carolina Public Records laws.
 - 1. To prevent the release of any confidential and proprietary information that otherwise could be held in confidence, the Offeror submitting the information must:
 - a. Invoke the exclusion from Public Record Law when the data or materials are submitted to the Owner or before such submission,
 - b. Identify the data and materials for which protection from disclosure is sought, and
 - c. State why the exclusion from disclosure is necessary.
 - 2. The Offeror may request and receive a determination from the Owner as to the anticipated scope of protection prior to submitting the proposal. The Owner is authorized and obligated to protect only confidential proprietary information, and thus will not protect any portion of a proposal from disclosure if the entire proposal has been designated confidential by the Offeror without reasonably differentiating between the proprietary and non-proprietary information contained therein.
- G. The Owner will not discriminate against any Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.
- H. This RFP with all attachments and the Offeror's responses may become part of the Service contract as determined by the Owner.

VI. Terms and Conditions of the Service Agreement

The successful Offeror or Offerors shall agree to enter into the Corolla Curbside Service Agreement included in Attachment D of this RFP. The Owner expressly reserves the right to modify any provision of the Corolla Curbside Service Agreement, at its sole discretion, prior to entering into the definitive Agreement.

VII. Instructions to Offeror on Proposal Submission

- A. For the Offeror's proposal to be considered:
 - 1. Proposals are to be submitted in sealed envelopes with the words "Corolla Curbside Open June 21, 2013" on the face of the envelope. Proposals must be signed in ink by an authorized representative of the Offeror. (Note: Documentation of signature authority shall be provided for both this RFP response and the Service Agreement.) Provide one (1) original and two (2) copies of the Service Proposal. The lower left

corner of the face of the envelope shall indicate the Offeror's name and title of the proposal. Deliver proposals to the Owner at the following location:

*Solid Waste Director
County of Currituck
153 Courthouse Road, Suite 302
Currituck, North Carolina 27929*

2. Proposals must be complete when submitted, including a cover sheet and all attachments and in the format specified. Proposals or any amendments to proposals received by the Owner after the closing date and time will not be considered. Actual receipt by the Owner and not the mailing or sending date shall control.
4. **Written questions and requests for clarification shall be submitted no later than June 5, 2013 at 5:00pm.** To the extent Currituck County determines to respond to such questions and requests for clarification, any and all responses and any supplemental instructions will be in the form of a **final written addendum, which if issued, will be emailed to all firms holding this RFP not later than June 12, 2013 at 5:00 pm.** All addenda shall become part of the RFP and the Service Agreement.
5. **Proposals must be received no later than June 21, 2013 at 2:00 pm.** Requests for extensions of this date will not be granted except by written amendment to the RFP applicable to all prospective Offerors.

B. Instructions for Proposals

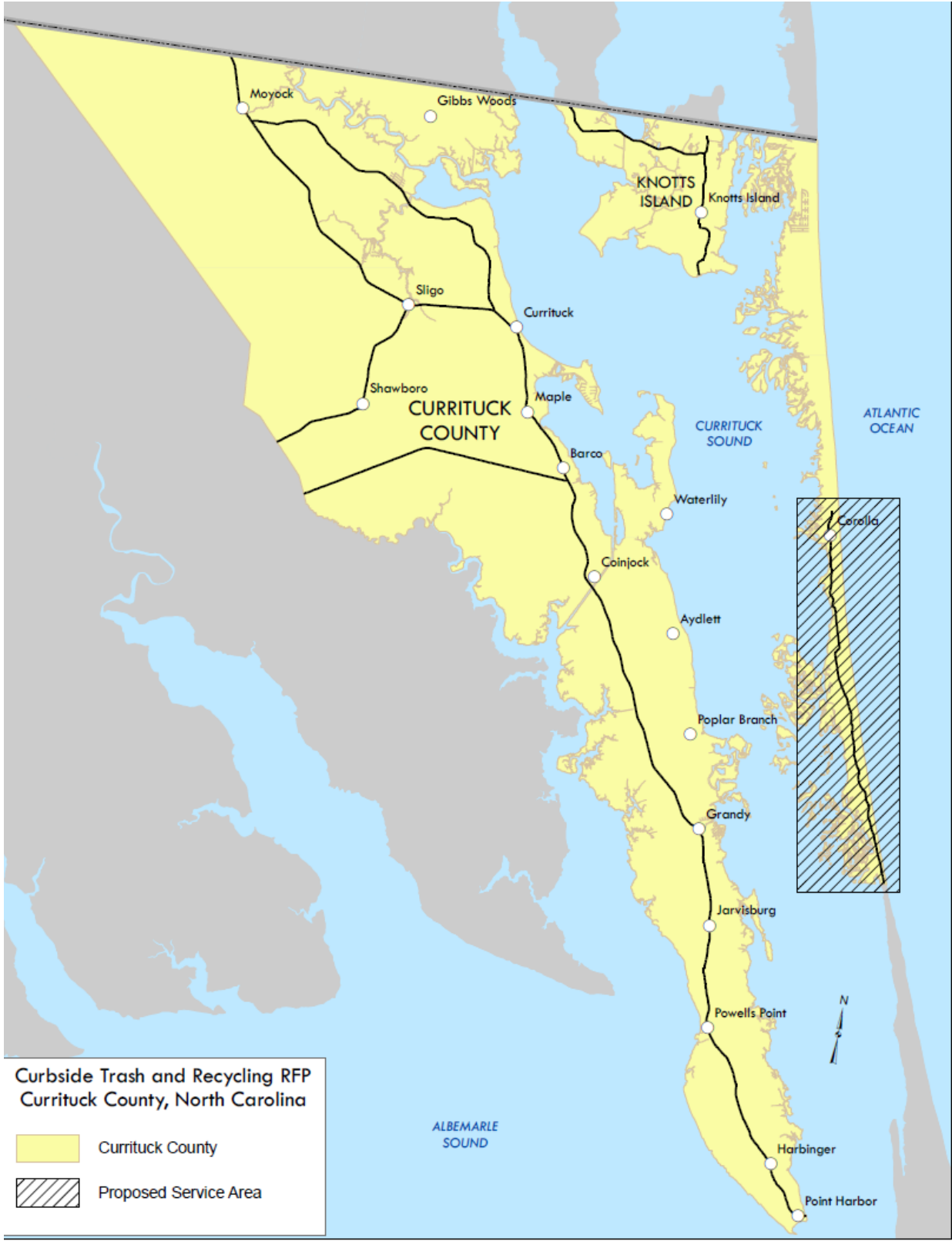
1. Brevity, clarity, and responsiveness in proposals are encouraged. The inclusion of extraneous information not pertinent to the basic purpose of the RFP is discouraged.
2. Technical proposals shall be limited to 50 letter size (unless otherwise expressed herein), one sided pages, not including cover sheet and tab dividers. All contents of the technical proposal shall be bound in one completed document.
3. Offerors are encouraged to carefully examine the RFP for discrepancies, errors, omissions or ambiguities. Any questions concerning the requirements of the RFP should be directed to Brenda K. McQueen, Public Works Department, at 252-232-2504 or email (preferred) at brenda.mcqueen@currituckcountync.gov .
4. The information required by this RFP must be complete and the Offeror's submittal must "stand-alone".
5. A list of all equipment that will be used in this project is to be provided (year, make model, type and number of trucks, front-load/side-load/rear load, type of fuel for each, capacity of each), style of refuse containers and recycling containers (number, size and capacity of each), and rental fees for property owners for additional containers as needed.
6. The term "similar project" shall be defined as having provided successful curbside collection and disposal services within the last 10 years. Each similar project will be presented on a separate sheet to include, but not limited to, size of the service area in mileage and units, frequency of service for each type of refuse, with current contact information for reference checks.

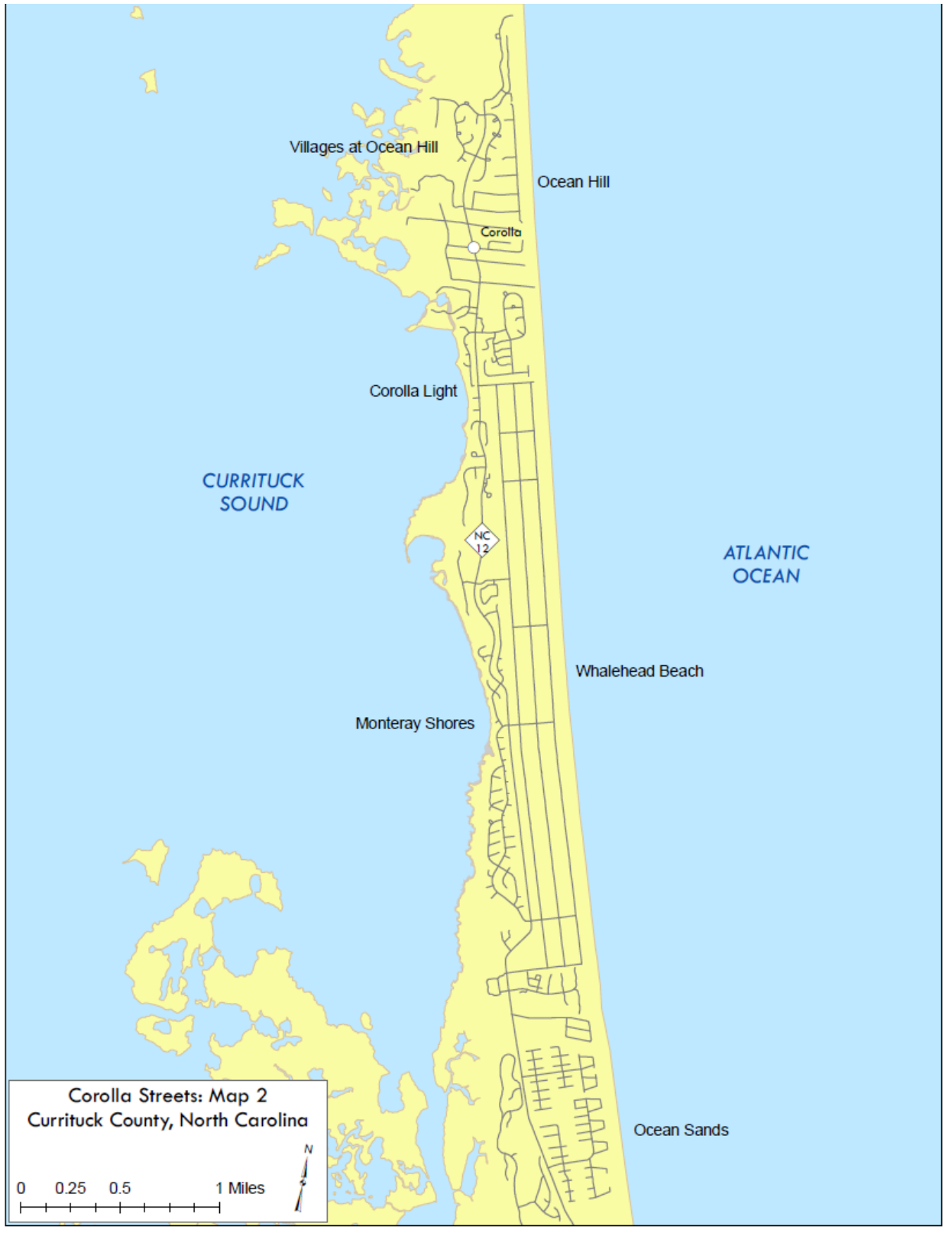
FINANCIAL PROPOSAL

7. The Offeror's Financial Proposal will be a cost per unit per month cost proposal for each service to be rendered (one for trash, one for recycling). The Financial Proposal will consist of the following:
 - a. Provide a detailed cost proposal for the cost of service using the Cost Proposal Form included in Attachment C.

ATTACHMENT A

Service Area Site Maps





ATTACHMENT B

SERVICE TEAM: MEMBERS FORM

Firm Name	_____
Point of Contact	_____
Address	_____
Telephone	_____
Email	_____
Route Supervisor	_____
Point of Contact	_____
Address	_____
Telephone	_____
Email	_____
Bulk Pickup Scheduling	_____
Point of Contact	_____
Address	_____
Telephone	_____
Email	_____
Missed Service Contact	_____
Point of Contact	_____
Address	_____
Telephone	_____
Email	_____
New Service / Additional Containers	_____
Point of Contact	_____
Address	_____
Telephone	_____
Email	_____
Invoice questions	_____
Point of Contact	_____
Address	_____
Telephone	_____
Email	_____

ATTACHMENT C

Corolla Curbside Trash & Recycling Collection & Disposal

COST PROPOSAL FORM

Description	Cost per unit per month
Rental of 1 recycling cart per residence	
Curbside trash service	
Curbside recycling service	
Other costs (detail below):	
Currently 3,778 units	
TOTAL MONTHLY SERVICE COST	

ATTACHMENT D

Service Agreement

**SOLID WASTE AND RECYCLING
SERVICE AGREEMENT**

COROLLA CURBSIDE PROGRAM

This Agreement is made this ____ day of _____, 2013, by and between THE COUNTY OF CURRITUCK, a body corporate and politic existing under the laws of the State of North Carolina (“County”) and _____, a _____ (state) corporation, hereinafter referred to as (“the CONTRACTOR”).

WITNESSETH

WHEREAS, under the Contract, the County desires for (THE CONTRACTOR) to provide: 1) solid waste collection and disposal services, including bulky items and yard waste collection; and 2) recyclables collection services; and

WHEREAS, concurrently with this Contract, the parties may enter into an Emergency Response Contract, as per Exhibit “A”; and

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, the parties, intending to be legally bound, agree as follows:

1. Definitions

a. The term “Acceptable Waste” shall mean solid wastes generated from residential areas, excluding Unacceptable Waste. Acceptable Waste includes animal carcasses weighing no more than ten pounds.

b. The terms “Center,” “Centers,” or “Convenience Centers” shall mean a staffed drop off area for Acceptable Waste.

c. The term “County Manager” shall mean the chief administrator of the County or the chief administrator’s designee.

d. The term "Change in Law" shall mean any of the following events or conditions which prevent the performance by the parties of their respective obligations under the Agreement (except for payment obligations):

(i) the formal adoption, promulgation, issuance or modification after the date hereof of any federal, state or local law, regulation, rule or ordinance, unless such law, regulation, rule or ordinance was on or prior to the date hereof duly adopted, promulgated, issued or otherwise officially modified, in each case in final form, to become effective without any further action by any federal state or local governmental body or administrative agency having jurisdiction; or

(ii) the final order or final judgment of any federal or state court or administration agency, on or after the date hereof, if such order or judgment is not also the result of willful or negligent action or lack of reasonable diligence of (THE CONTRACTOR).

A Change in Law shall not include a change in any tax or similar law or a change in any employment or similar law.

e. The term "Curbside" shall mean an area located directly adjacent to a residential lot, where the lot adjoins the public right of way. The right of way shall be public and may be a street or a public alley.

f. The term "Customer" shall mean the beneficiary of the services provided for by this Agreement.

g. The term "Force Majeure" shall mean any act, event or condition, whether affecting the County or (THE CONTRACTOR), to the extent that it prevents either party from performing any obligation under the Agreement (except for payment obligations), if such act, event or condition is beyond the reasonable control and is not also the result of the willful or negligent action or inaction of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under the Agreement; provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as willful or negligent action or a lack of reasonable diligence of either party. Such acts or events may include, but shall not be limited to the following:

(1) an act of God, landslide, lightning, earthquake, fire explosion, flood, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance;

(2) a Change in Law;

(3) the failure of any subcontractor or supplier to furnish labor, services, materials or equipment on the dates agreed to if such failure is caused by an Uncontrollable Circumstance and the affected party is not reasonably able to obtain substitute labor, services, materials or equipment on the agreed-upon dates;

(4) strikes, work stoppages, or other labor disputes or disturbances (other than by employees of the affected party or any affiliate or by employees of any contractor or subcontractor of the affected party or affiliate) if the affected party is not reasonably able to obtain substitute labor, services, materials or equipment when required.

h. The terms "Recyclables" or "Recyclable Waste" shall mean source-separated mixed paper (paper and cardboard), commingled goods (glass, plastics, bi-metals, and aluminum), and any other materials deemed recyclable in the future, collected for the purpose of recycling.

i. The term "Residential Unit" or "Unit" shall mean single-family dwellings, apartment complexes, or, townhouse complexes that are customers of the County.

j. The term "Roadside" shall mean the location adjacent to, but no more than ten (10) feet from the edge of the roadway.

k. The term "Unacceptable Wastes" shall mean any (a) regulated quantity of a Hazardous Waste or Hazardous Substance as defined by federal, state or local laws or regulations; (b) containerized wastes the contents of which are not able to be identified; (c) sludge's; (d) waste from a pollution control process or cleanup of a spill of a chemical substance or commercial product; (e) white goods with CFC not removed; (f) biohazards or regulated medical waste, (g) friable asbestos, (h) construction and demolition debris; or (i) any special waste or material which may not be lawfully disposed of at the Landfill.

2. Scope of Work

As more fully set forth below, (THE CONTRACTOR) shall be responsible for the following Services: (1) providing the trash collection and disposal; and (2) providing Recyclables collection and delivery to specified locations. Concurrently with this Contract, (THE CONTRACTOR) shall also provide emergency response services as authorized by County.

3. Term

The Term of this Agreement shall be for a period of five (5) years commencing on January 1, 2014 and ending on December 31, 2018.

4. Curbside Trash and Recyclables Collection Services

a. (THE CONTRACTOR) shall collect Acceptable Waste and Recyclables from each Residential Unit, curbside, from Dare County/Currituck County line north through the subdivision of The Villages of Ocean Hill where N.C. Highway 12 ends (the "Service Area"). A copy of the Service Area is attached hereto as Attachment "A".

b. Collection for both Acceptable Waste and Recyclables for detached, single-family units shall be made roadside.

c. The County Manager shall designate all Units other than detached, single-family units from which (THE CONTRACTOR) shall collect Acceptable Waste and Recyclables. A list of the Additional Units is listed on Attachment "B". The parties understand that Additional Units, other than detached, single-family units constructed in the County during the period of this Agreement, shall not be added without authorization from the County Manager. The County shall notify (THE CONTRACTOR) of additional detached, single-family units constructed in the County during the term of this Agreement and (THE CONTRACTOR) shall begin collection of Acceptable Waste and Recyclables from those additional single-family units upon notification.

5. Additional Instructions for Curbside Trash Collection

a. White goods and bulky items shall be collected at roadside on the scheduled collection day by appointment for Acceptable Waste normal household and not construction debris. All freon shall be certified that it is removed prior to collection.

b. Yard waste, brush, limbs and trimmings, shall also be collected as Acceptable Waste, provided that the Yard Waste shall be cut in lengths of less than four feet (4') and securely tied bundles of less than two feet (2') in diameter, or weighing not more than seventy (70) pounds. Grass and weeds qualifying for collection shall be placed in boxes or bags of reasonable size and strength to permit loading into the collection vehicles.

c. Land clearing debris, storm debris and construction and demolition shall not be Acceptable Waste under this Agreement.

6. Additional Instructions for Curbside Recyclables Collection Services

a. (THE CONTRACTOR) shall provide each Unit (resident) with a 96-gallon container, which will allow the customer to conduct Single Stream Recycling. Title to the container shall remain with (THE CONTRACTOR), and (THE CONTRACTOR) shall promptly replace, at (THE CONTRACTOR)'s expense, damaged carts. Missing containers will be replaced at the County's expense. The cost for the carts will be as per Attachment A

b. (THE CONTRACTOR) shall keep a record of container collection along each route. (THE CONTRACTOR) shall provide County with a copy of the records quarterly indicating collection times, participation rate, weight or material collected and other information reasonably necessary for the County to establish compliance with North Carolina's recycling requirements.

c. The parties shall jointly conduct a public information campaign to encourage customers to recycle.

d. (THE CONTRACTOR) shall transport collected Recyclables to a recycling processing center or directly to markets as directed by County. (THE CONTRACTOR) shall ensure that Recyclables generated within the County are collected and delivered to the appropriate recycling facility in a manner consistent with the County's intent for recycling and not disposed of in a landfill or other disposal facility unless the materials are found to be contaminated or if the material due to market conditions exceeds a negative \$25.00 ton value.

e. If necessary, (THE CONTRACTOR) shall ensure that the storage of Recyclables shall not create any safety hazard, danger to person or environment or a nuisance, including odors, vectors and unsightliness.

7. Schedule of Trash and Recyclables Collection Services

a. (THE CONTRACTOR) shall provide Collection Services according to the following schedule:

(i) From October 1 through to April 30 of each term year:

Trash and Recyclables Collection Services shall be made on _____ (day of the week).

(ii) From May 1 through September 30 of each term year:

Trash and Recyclables Collection Services shall be made on _____ and _____ (days of the week).

b. No collections shall be made before 7:00 a.m. Eastern and shall end by 5:30 p.m. Eastern, except that collection may continue beyond 5:30 p.m. in the event of an unusual amount of Acceptable Waste or Recyclables due to, without limitation, a holiday, storm or equipment breakdown. In the event of extended hours, (THE CONTRACTOR) shall notify the County Administrator as soon as possible of its intent to extend collection hours.

c. (THE CONTRACTOR) shall provide the Service on all holidays with the exception of Thanksgiving Day, Christmas Day, and New Year's Day. In order to ensure each residence is provided its weekly collection service, those residents whose normal collection day falls on a holiday shall receive collection on the following _____. All other collection days will remain unchanged. The schedule will revert to its normally scheduled collection days in the week following the holiday week.

d. The parties may modify the schedule by mutual agreement.

8. Missed Collection

a. Except for force majeure events and as provided herein, if any unit is not collected as scheduled, (THE CONTRACTOR) shall collect the missed unit within 24 hours of notice to (THE CONTRACTOR). If (THE CONTRACTOR) fails to collect the unit with 24 hours of notice, then the County

may impose a penalty of five dollars (\$5) per unit not receiving the Service. Such failure shall not be considered a material breach of the Agreement.

b. If (THE CONTRACTOR) is unable to provide the Services due to force majeure events, weather, equipment breakdown/failure or accident, (THE CONTRACTOR) shall notify the County in a timely manner but not later than 4:30 on the day (THE CONTRACTOR) is unable to provide the Services.

9. Service Fees for Trash and Recyclables Collection Services

- a. The monthly fee for trash collection is provided in Attachment "A"
- b. The monthly fee for Recyclables collection is provided in Attachment "A".
- c. The number of Units for which (THE CONTRACTOR) shall be paid during the first year of the Agreement shall be determined by a mutual count. The parties shall adjust the number of Units on the anniversary of this Agreement to be effective for the upcoming Service year.
- d. Upon receipt of an invoice from (THE CONTRACTOR), the County shall pay for the Services by the fifteenth (15th) of the following month.

10. Disposal of Acceptable Waste (THE CONTRACTOR)

a. (THE CONTRACTOR) shall be able to dispose of Acceptable Waste at the County's designated transfer station or disposal facility at the County's expense (the "Designated Transfer Station"). The County's Designated Transfer Station is located at the Maple Transfer Station, 216 Maple Road, Maple, North Carolina 27956. The County may, during the Term of this Agreement, designate an alternative transfer station or disposal facility for use by (THE CONTRACTOR), in which case, the parties shall determine any additional compensation owed to (THE CONTRACTOR). In no event shall (THE CONTRACTOR) or its subcontractors dispose of any waste or other material in the transfer station that is collected outside of the County without the express written permission of the County Manager. In the event the County imposes a tipping fee at the transfer station, the tipping fee shall not apply to waste collected in Currituck County under this Agreement.

b. The parties shall jointly develop a method to differentiate the Acceptable Waste not subject to fees hereunder from other waste for which a tipping fee must be paid. If (THE CONTRACTOR) disposes of waste at the transfer station that is collected from outside the County, the County Manager

may elect to withhold compensation at a rate equal to the tipping fee then in effect at the transfer station for each ton of out-of-County waste improperly disposed.

c. If the County designated facility is not open or operational then (THE CONTRACTOR) may, with the County's permission, use other facilities to insure the County's trash is collected. The rate charged the County shall equal the rate the County pays the disposal facility, typically.

d. White goods, scrap metals and yard waste will be delivered to the facility for processing by the County.

11. Customer Service Standards

a. (THE CONTRACTOR) shall maintain a local office for operations support to include an Operations/Customer Relations Manager to the County. This individual shall be available and in communication with County personnel to help resolve any customer service problems as they occur. The Manager shall schedule quarterly meetings with County personnel to review and discuss any complaints, problems, or ideas for customer service improvement.

b. (THE CONTRACTOR) shall maintain a local telephone number for County residents with questions or complaints. In addition, (THE CONTRACTOR) may use e-mail or a website for customer communications.

c. If reasonably possible, all complaints received by (THE CONTRACTOR) received during a workday shall be addressed within twenty-four hours. If the complaint cannot be addressed within twenty-four hours, (THE CONTRACTOR) shall inform the County.

12. Insurance

(THE CONTRACTOR) shall obtain and maintain, at its sole cost and expense, at least the following insurance coverage throughout the entire Term of the Agreement and any renewal Term:

- | | | |
|----|--------------------------------|----------------------|
| a. | Worker's Compensation and | statutory minimums |
| | Employer's Liability Insurance | |
| b. | General and Public Liability | \$500,000 aggregate |
| | | \$500,000 per person |

- c. Vehicle Liability Insurance \$500,000 aggregate
\$500,000 per person

These insurance coverage's shall be issued by companies admitted with the State of _____, with a Best's Way Rating of at least A:VI or better, except that insurers of the London Syndicate or other recognized British and European insurers not rated may be allowed. (THE CONTRACTOR) shall provide the County with a Certificate of Insurance evidencing coverage required by this Agreement. (THE CONTRACTOR) shall provide the County with thirty (30) days notice of any cancellation, non-renewal, material change in coverage, or coverage reduction affecting the insurance required by this Agreement.

13. Indemnification

a. (THE CONTRACTOR) shall indemnify, defend, and hold harmless the County, the County's agents, officials, and employees from and against any and all liabilities, penalties, fines, forfeitures, judgments, demands, claims, suits, and costs and expenses (including attorneys' fees and costs of defense) which the County, their agents, officials, and employees, may incur due to bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violations of governmental laws or regulations caused by the negligent acts or omissions of (THE CONTRACTOR), its employees, agents, and subcontractors, in the performance of the terms of this Agreement. (THE CONTRACTOR) expressly agrees that any performance bond or insurance protection required under the terms of this Agreement shall in no way limit (THE CONTRACTOR)'s responsibility to indemnify, defend and save the County harmless as provided herein.

b. The County shall indemnify, defend, and hold harmless (THE CONTRACTOR), its officers, directors, employees, and agents from and against any and all liabilities, penalties, fines, forfeitures, judgments, demands, claims, suits, and costs and expenses (including attorneys' fees and costs of defense) which (THE CONTRACTOR) or its officers, directors, employees, and agents may incur due to bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violations of governmental laws or regulations caused by the acts or omissions of the County, their employees, agents, and subcontractors.

- c. These indemnification provisions shall survive the termination of this Agreement.

14. Performance Bond

(THE CONTRACTOR) shall post and maintain for the entire Term a performance bond in the amount of 100% of the annual contract amount (the "Bond"). The performance bond shall be adjusted on each anniversary date to reflect current Contract totals. Upon ten (10) days written notification to (THE CONTRACTOR) and Bonding Company and subject to the default provisions of paragraph 18 below, the County may access the Bond in order to clean, repair, correct, or remediate any damages resulting from a breach of the terms and conditions of this Agreement.

15. Default

Except for force majeure events, the failure of either party to perform its material obligations under this Agreement shall be considered a breach of this Agreement, and the breaching party shall be in default. In the event of a default, the non-defaulting party shall give written notice of the default to the defaulting party. The defaulting party shall have ten (10) days from the receipt of the notice to cure any failure to pay money under this Agreement or thirty (30) days from the receipt of the notice to cure any other default under this Agreement.

If the defaulting party fails to cure the breach within the allotted time, the non-defaulting party may, at its option, terminate the Agreement. In the event that (THE CONTRACTOR) fails to cure within the allotted time a default of any material obligation contained in this Agreement, the County shall have the right to possess and operate, at (THE CONTRACTOR)'s expense, any and all equipment required to perform the obligations under this Agreement in order to protect the public health, safety and welfare by maintaining the solid waste disposal and recycling services.

16. Warranties

a. The County represents and warrants that:

(i) The County has complied with all applicable laws, regulations, ordinances, and other legal requirements applicable to the procurement of the services contemplated by this Agreement;

(ii) The County have the full power, authority and legal right to enter into and perform this Agreement, and the execution, delivery and performance of the Agreement by the County (a) have the requisite approval of all governmental bodies; (b) will not violate any judgment, order, law

or regulation applicable to the County ; and (c) does not conflict with or constitute a default under any agreement or instrument to which the County are a party or by which the County or their assets may be bound or affected;

(iii) This Agreement, when executed and delivered by the County, will constitute legal, valid and binding obligations of the County, enforceable in accordance with its terms;

(iv) There is no litigation, proceeding or claim pending or, to the knowledge of the County, threatened against or affecting the County (a) challenging the validity of this Agreement; (b) seeking to enjoin the performance by the County of their obligations under the Agreement; or (c) which, if adversely determined, would materially adversely affect the ability of the County to perform their obligations under this Agreement;

b. (THE CONTRACTOR) represents and warrants that:

(i) (THE CONTRACTOR) is a corporation duly organized and existing in good standing under the laws of the State of North Carolina;

(ii) (THE CONTRACTOR) has the corporate power, authority and legal right to enter into and perform this Agreement, and the execution, delivery and performance of this Agreement by (THE CONTRACTOR) (a) has the requisite corporate approval; (b) will not violate any judgment, order, law or regulation applicable to (THE CONTRACTOR) or any provision of its charter or by-laws; and (c) does not conflict with or constitute a default under any agreement or instrument to which (THE CONTRACTOR) is a party or by which (THE CONTRACTOR) or its assets may be bound or affected;

(iii) This Agreement, when executed and delivered by (THE CONTRACTOR), will constitute legal, valid and binding obligations of (THE CONTRACTOR), enforceable in accordance with its terms;

(iv) There is no litigation, proceeding or claim pending or, to the knowledge of (THE CONTRACTOR), threatened against or affecting (THE CONTRACTOR) (a) challenging the validity of this Agreement; (b) seeking to enjoin the performance by (THE CONTRACTOR) of its obligations under the Agreement; or (c) which, if adversely determined, would materially adversely affect the ability of (THE CONTRACTOR) to perform its obligations under this Agreement;

17. Construction and Operation of the Agreement

a. Relationship of the Parties

Except as otherwise explicitly provided herein, no party to this Agreement shall by virtue of this Agreement have any responsibility whatsoever with respect to the services provided or contractual obligations assumed by any other party and nothing in this Agreement shall be deemed to constitute any party a partner, agent or legal representative of any other party or to create any fiduciary relationship between or among the parties.

b. Assignment

This Agreement may not be assigned by either party to a non-affiliated entity without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto pursuant to this paragraph 16.2. Any attempted assignment made contrary this paragraph shall be void.

c. Notices

Any notices or communication required or permitted under this Agreement shall be in writing and sufficiently given if delivered by fax, in person, overnight courier, or sent by certified mail, return receipt requested, postage prepaid as follows:

If to the County:

Office of the County Attorney
County of Currituck
153 Courthouse Road
Currituck, NC 27929

If to (THE CONTRACTOR):

With a copy to:

Changes to the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other party, delivered in accordance with this paragraph.

d. Waiver

The waiver by either party of a default or a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any default or breach.

e. Entire Agreement; Modifications

The provisions of this Agreement shall (a) constitute the entire agreement between the parties, superseding all prior agreements and negotiations, and (b) may not be modified or amended, unless in writing and mutually agreed upon by both parties.

f. Severability

In the event that any provision of this Agreement, or the application of such provision to any person or circumstance shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action remain in full force and effect.

g. Headings

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not be used in construing this Agreement.

h. Governing Law

This Agreement and any question concerning its validity, construction or performance shall be governed by the laws of the State of North Carolina, irrespective of the place of execution or of the order in which the signatures of the parties are affixed or of the place or places of performance.

i. Counterparts

This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.

j. Conventions

In this Agreement, the singular includes the plural and the plural the singular; words importing any gender include the other gender; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; references to "writing" include printing, typing, lithography and other means or reproducing words in a visible form; references to agreements and other contractual instruments shall be deemed to include all subsequent amendments thereto or changes therein entered into in accordance with their respective terms; references to persons include corporations, partnerships, business trusts, trusts, joint ventures, governmental entities and their permitted successors and assigns as well as natural persons and their legal representatives and permitted assigns; and the term "including" shall mean including without limitation; references to "Sections" and "Articles" shall mean sections and articles of this Agreement, unless otherwise stated.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first written above.

(THE CONTRACTOR)

ATTEST:

By: _____

By: _____

Title: _____

Title: _____

COUNTY OF CURRITUCK BOARD OF

COMMISSIONERS

CURRITUCK COUNTY,

NORTH CAROLINA a body corporate and
politic of the State of North Carolina

ATTEST:

_____ (SEAL)

Approved for legal sufficiency:

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

Sandra Hill

Finance Officer