

# Town of New Durham

## Invitation to Bid

### **Hauling and Disposal of Municipal Solid Waste and Construction Debris from the New Durham Solid Waste Facility 2014**

The Town of New Durham Board of Selectmen is requesting bid proposals for the following Hauling and Disposal of Municipal Solid Waste and Construction Debris/Bulky Waste from the New Durham Solid Waste Facility. The terms for the contract will be effective starting January 1, 2014. Bid specifications can be viewed from the Town's website at [www.newdurhamnh.us](http://www.newdurhamnh.us) or picked up at the Highway Garage located at 56 Tash Road. Questions can be answered by calling Facility Foreman, Joseph Bloskey at (603) 859-8080 or by emailing [ndhd@metrocast.net](mailto:ndhd@metrocast.net). Mandatory site visit is scheduled for Friday, August 2, 2013 at 10:00am at 56 Tash Road, rain or shine. All proposals must be submitted in a sealed envelope, clearly labeled "Town of New Durham Hauling and Disposal of MSW and C&D 2014", and received at the New Durham Town Hall, 4 Main Street, New Durham or mailed to PO Box 207, New Durham NH 03855, at or before 3PM, Friday, August 16, 2013. Bids will be opened and publicly read Friday August 16, 2013 3:30PM in the Town Hall, 4 Main Street. The Town of New Durham reserves the right to accept, reject, modify, or negotiate any and/or all proposals or any portion thereof in the best interest of the Town of New Durham.

# **Specifications**

## **Hauling and Disposal of Municipal Solid Waste and Construction Debris from the New Durham Solid Waste Facility 2014**

### **Description:**

The Board of Selectmen, on behalf of the Town of New Durham, is soliciting competitive proposals from qualified applicants to assist with municipal solid waste services. The Town is seeking a contractor(s) who will work cooperatively with the Town to meet the Town's objectives to advance its sustainability initiatives, eco-municipality standing, and improve the cost of its solid waste program. More specifically, through continuation of its on-site drop-off and disposal services for residential users, the Town desires to improve its transportation and disposal rates. The Town also seeks to reduce its long-term operating cost and reduce its carbon foot print. The Town is interested in making changes/improvements to its operations at the Transfer Station, most significantly to economize the number of hauls of material from the Transfer Station to the disposal outlets. All Applicants shall submit contracts for the following terms three (3) years, five (5) years, and seven (7) years. The Applicant must be willing to enter into a contract to provide services in accordance with the following conditions:

### **Scope of Services:**

During the entire contract period the contractor shall provide and maintain equipment to service the transfer site. The equipment shall be kept in good repair, appearance, and in a sanitary condition by the contractor, and, the equipment shall be capable of transporting and handling loads ranging from a few tons up to fifteen (15) tons. The contractor shall haul the acceptable waste and/or acceptable construction debris to a lawfully approved disposal site, when requested by the town. The Applicants must be qualified and licensed to service solid waste transfer stations in accordance with applicable Federal, State, and local laws and must be willing to enter into a contract that will expire no sooner than December 31, 2016.

The contractor (s) shall provide the expertise, equipment, labor and materials required to perform all operations in connection with the Hauling and Disposal of Municipal Solid Waste (MSW) and Construction Debris/Bulky Waste (C & D) from the New Durham Solid Waste Facility beginning January 1, 2014.

### **General Information:**

The Town owns the following equipment: ***three compactors, and two 50cy closed containers, and one 45cy closed container.***

Currently the days and hours of operation at the New Durham Solid Waste Facility are Friday, Saturday, Sunday, and Monday from 7am to 5:00pm.

All contractor(s) shall list separately, on the "Bid Sheet":

1. The transportation cost to haul municipal solid waste and
2. The transportation cost to haul construction debris on the enclosed Bid Sheet.
3. The cost to dispose of municipal solid waste and the cost to dispose of construction debris on the enclosed Bid Sheet.
4. List all cost for any rental fees per open top containers, per month on the enclosed Bid Sheet.
5. List all terms and conditions for which an annual review of costs for transporting and disposal fees, and the terms of the contract, and any and all fees and the terms and conditions.
6. List all terms and conditions for billing the town for services provided to the community.

Reports and Invoicing: A copy of all weight tickets shall be sent to the Solid Waste Facility Office Manager, preferably by e-mail, as soon as reasonably possible following all hauls.

At a minimum the weight tickets will have the following data recorded:

1. Date of haul,
2. Total tonnages,
3. Tonnage for the load,
4. Identification of the load, MSW or C & D, and
5. If the haul is part of a tandem haul.

At a minimum the monthly invoices shall include:

1. Identification of the type of material hauled (example MSW or C & D),
2. List individually the hauling and disposal cost each load,
3. Tonnages for each load,
4. The date of the haul and
5. Total cost for each individual load.

The Town reserves the right to reject any or all proposals, to waive on non-material irregularities on information in any proposal and to accept or reject any item or combination of items.

Contractors must propose on items as specified. Any proposed changes must be detailed in writing and submitted as an addendum to the proposal.

The award will be made to the responsible Applicant based on quality of bid proposal, bid amounts and other factors based on the interests of the Town. The award may be made for individual items at the discretion of the Selectmen. The Town specifically reserves the right to reject any or all proposals or any part thereof. Further, the Town reserves the right to negotiate the terms of the contract and the scope of the project with the successful bidder without having to rebid the job.

**Town of New Durham**  
**Bid Sheet**  
**Hauling and Disposal of Municipal Solid Waste and Construction Debris from the New Durham Solid Waste Facility 2014**

The Board of Selectmen, on behalf of the Town of New Durham is soliciting competitive proposals from qualified applicants to assist with municipal solid waste services. The Town is seeking a contractor(s) who will work cooperatively with the Town to meet the Town’s objectives to advance its sustainability initiatives, eco-municipality standing, and improve the cost of its solid waste program. More specifically, through continuation of its on-site drop-off and disposal services for residential users, the Town desires to improve its transportation and disposal rates. The Town also seeks to reduce its long-term operating cost and reduce its carbon foot print. The Town is interested in making changes/improvements to its operations at the Transfer Station, most significantly to economize the number of hauls of material from the Transfer Station to the disposal outlets. All applicants shall submit contracts for the following terms three (3) years, five (5) years, and seven (7) years.

Questions can be answered by calling Facility Foreman Joseph Bloskey at (603) 859-8080 Monday or Friday, between 7:00AM to 4:00 PM, or by emailing [ndhd@metrocast.net](mailto:ndhd@metrocast.net).

All proposals must be submitted in a sealed envelope, clearly labeled “Town of New Durham Hauling and Disposal of MSW and C&D 2014”, and received at the New Durham Town Hall, or mailed to PO Box 207, New Durham, NH 03855, at or before 3:00PM, Friday, August 16, 2013. Bids will be opened and publicly read on Friday, August 16 at the Town Hall, 4 Main Street at 3:30PM. Following a review of the bids by staff, the Board of Selectmen would be scheduled to award the bid on or before October 31, 2013. The Town of New Durham reserves the right to accept, reject, modify or negotiate any and/or all proposals or any portion thereof in the best interest of the Town of New Durham.

Bid response must be based on the attached specifications. Proof of Worker’s Compensation and Liability Insurance must be provided to the Town by the Contractor and is required to be held by the awarded Applicant for the duration of the project. Sealed bid responses shall include: Written proof verifying Contractor or Subcontractors are not listed on the “Excluded Parties List” @ <https://www.sam.gov>; Bid Sheet; Bid Conditions; Bid Bond; and any Addendums.

<b><u>Disposal Fees</u></b>			<b><u>Hauling Fees</u></b>			<b><u>Any Other Fees:</u></b>
<b><u>C &amp; D/Bulky Waste Price Per Ton</u></b>			<b><u>C &amp; D/Bulky Waste Price Per Haul</u></b>			<b><u>C &amp; D/Bulky Waste</u></b>
<u>3 year</u>	<u>5 year</u>	<u>7 year</u>	<u>3 year</u>	<u>5 year</u>	<u>7 year</u>	
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	
<b><u>MSW Price Per Ton</u></b>			<b><u>MSW Price Per Haul</u></b>			<b><u>MSW</u></b>
<u>3 year</u>	<u>5 year</u>	<u>7 year</u>	<u>3 year</u>	<u>5 year</u>	<u>7 year</u>	
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	

Attach to this Bid Sheet all documents listing all details for an annual review of costs for hauling and disposal, and any other terms and/or conditions or information to be considered with this proposal. Respectively submitted;

\_\_\_\_\_  
 Print Bidder/Contractor’s Name

\_\_\_\_\_  
 Print Representative’s Name and Title

\_\_\_\_\_  
 Representative’s Signature

\_\_\_\_\_  
 Street

\_\_\_\_\_  
 City, State, Zip Code

\_\_\_\_\_  
 Telephone and Fax Number Email Address

\_\_\_\_\_  
 Date

Person signing proposal must be a person in your company authorized to sign a Contract with the Town of New Durham NH. Any deviation from the stated specifications must be so noted and the bid prices must reflect these deviations.

## General Provisions

1. Each bid shall be submitted in a sealed envelope clearly identified with the Bidder's name and marked "Town of New Durham Hauling and Disposal of MSW and C&D 2014" and will be received in the New Durham Town Hall, or mailed to PO Box 207, New Durham NH 03855, at or before 3:00PM, Friday, August 16, 2013. The Town is requesting six (6) copies of the proposals for review by the Selectmen and by the SWF Staff.
2. Bids will be opened and publicly read on August 16, 2013 at the Town Hall, 4 Main Street at 3:30PM. Bids when opened shall be irrevocable for a period of 60 calendar days following the bid-opening date. Following a review of the bids by staff, the Board of Selectmen will award the bid at a regular public meeting.
3. The Town of New Durham reserves the right to accept, reject, modify, or negotiate any and/or all proposals or any portion and to waive defects in form of minor irregularities thereof in the best interest of the Town of New Durham.
4. The bid price shall not include Federal or State taxes. If such are applicable, the successful Bidder shall furnish the Town with the necessary tax-exempt forms in triplicate upon submission of the invoice.
5. The contractor(s) shall not, directly or indirectly, enter into any agreements, participate in any collusion, or otherwise take any action in restraint of free competitive bidding in connection with this bid.
6. The successful contractor(s) shall not use the name of the Town in any advertising without first obtaining written permission from the Board of Selectmen.
7. Any changes to the provisions or specifications of this Bid shall be made by written addendum issued no later than 4 working days prior to the bid opening date. Prospective Bidders shall have complete responsibility for being aware of any and all addenda.
8. The contractor(s) attention is drawn to the fact that they shall observe and comply with all applicable Federal and State Laws and Regulations, Town Ordinances, and the Town's Purchasing Policy. These shall also apply to the Agreement the same as though written out herein in full, and the Contractor shall indemnify the Town and its representative against any claim or liability arising from or based on any such law, ordinance, rules and regulation by themselves or by their employees. The successful Bidder shall notify the Town immediately if these bid documents are at variance with any laws or regulations.
9. The Town may make such investigations as it may deem necessary to determine the ability of the contractor(s) to perform the services, check references, etc. The contractor(s) shall furnish the Town all such information for this purpose that the Town may request. The Town reserves the right to reject any and all bids if the evidence submitted by, or investigation of, such contractor(s) fails to satisfy the Town that such contractor(s) is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.
10. The contractor(s) shall secure and pay for all permits and licenses required for the work in accordance with the bid documents, contract and specifications required for a complete finished job.
11. The contractor(s) acknowledges that it is an independent Contractor responsible for its own acts and performance under the Contract, including the acts of its employees and performance of its equipment. In addition to maintaining the required insurance under this Contract, the contractor(s) to the fullest extent permitted by law, shall protect, indemnify, save, defend and hold harmless and exempt the Town, its officers, officials, agents, volunteers and employees ("Indemnified Parties") from and against any and all liabilities, obligations, claims, damages, penalties, causes of actions, costs, interest and expenses, including but not limited to reasonable attorney and paralegal fees, which Indemnified Parties may become obligated by reason of any accident, bodily injury, personal injury, death of person, or loss of or damages to property, arising indirectly or directly under, in connection with, or as a result of this agreement or the activities of the contractor and even if caused in whole or in part by any negligent or intentional act or omission of Indemnified Parties. In addition, and regardless of respective fault, the Contractor(s) shall defend, indemnify and hold harmless the Indemnified Parties for any costs, expenses and liabilities arising out of a claim, charge or determination that the Contractor's officers, employees,

contractors or agents are employees of the Indemnified Parties, including but not limited to claims or charges for benefits, wages, fees, penalties, withholdings, damages or taxes brought in connection with laws governing workers compensation, unemployment compensation, social security, medicare, state or federal taxation, and/or any other similar obligation associated with an employment relationship.

12. The contractor(s) shall, in the employment of labor, comply with the laws of the State of New Hampshire, including but not limited to Chapter 275, RSA, as amended, "Hours of Labor", Chapter 279, RSA as amended, "Minimum Wage Law".
13. Insurance: At the time of the execution of the Contract, the contractor(s) shall present to the Board of Selectmen, proof of the required Liability Insurance Coverage. The contractor(s) shall provide proof of commercial general liability insurance, including completed operations coverage, with limits of \$1,000,000.00 per occurrence and \$5,000,000.00 aggregate, and shall add the Town to the policy as an additional insured by way of amendatory endorsement and certificate of insurance. The liability insurance shall contain contractual liability coverage applicable to the indemnification obligations of the contractor. Contractor(s) shall provide proof of acceptable automobile insurance applicable to activities in connection with the project, as well as workers compensation insurance applicable to its employees. The Town shall not be required to indemnify or insure the contractor(s).
14. The contractor(s) is to submit Proposal on attached "Bid Sheet" for "Unit Prices".
15. Upon receipt of written notice of acceptance of their bid, the successful contractor(s) shall execute and deliver the formal contract, attached, within ten calendar days to the Town.
16. Each Bid must be accompanied by Bid Security, payable to the Town of New Durham, in the amount of (One Hundred and Fifty Hundred Dollars) \$150.00. Acceptable types of Bid Security include, but are not limited to: Bid Bonds, guaranteed by a surety acceptable to the Town, certified check or money order, cash, or letters of credit in a form acceptable to the Town. Such Bid Security will be returned to all Bidders within five working days after the Town and the accepted Bidder have executed the Contract, or if no Contract is executed, within sixty calendar days after the date of opening the bids, upon demand of the bidder at any time thereafter, so long as they have not been notified of the acceptance of their bid.
17. The successful contractor(s), upon their failure or refusal to execute and deliver the Contract and security, if required, within ten calendar days after they have received notice of the acceptance of their bid, shall forfeit to the Town, as liquidated damages for such failure or refusal, the security deposited with their bid.
18. The Contract Documents shall include, may not be limited to: the "Invitation to Bid"; "General Provisions"; "Specifications"; "Bid Security"; "Bid Sheet"; "Proposal" "Change Orders"; "Drawings" (if any); "Notice to Proceed"; "Notice of Award"; any issued addenda and the final executed "Contract Agreement".

The intent of these documents is to include all labor, materials, appliances and services of every kind necessary for the proper execution of the work and the terms and conditions of payments shall be as binding as if called for by all.
19. A complete understanding of the conditions as they exist is required by a careful personal examination of the work at the site. The contractor(s) also shall examine carefully the Specifications and the Contract forms of the work contemplated. The contractor(s) shall not, at any time after the execution of the Contract, set up any claims whatsoever based upon insufficient data or incorrectly assumed conditions, nor shall it claim any misunderstanding in regard to the nature, conditions, or character of the work to be performed under this contract, and it shall assume all risks resulting from any change in the conditions which may occur during the progress of the work.
20. The Town shall make payment on account of the Contract as the term described in the "Specification".
21. After execution of the Contract, there shall be no changes in the Bid Documents except by a written amendment executed in the same manner as the Contract or by Change Order as described below:

**Change Orders:**

A. The Town, without invalidating the Contract, may order changes in the work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract sum and the Contract time being adjusted accordingly. All such changes in the work shall be executed under the applicable conditions of the Contract Documents.

- B. A change order is a written order to the Contractor signed by the Board of Selectmen or their designee and the Contractor, after execution of the Contract, authorizing a change in the work and/or an adjustment in the Contract time.
- C. The terms of any change order shall be mutually agreed to by the Contractor and the Board of Selectmen.
22. The entire work contemplated by the Contract shall be under the supervision of the Board of Selectmen, or their agents so designated, and all questions concerning the prosecution of the work shall be referred to and decided by them.
23. Assignment: The Contractor shall not assign, sublet, or transfer its interest in this agreement without written consent of the Town of New Durham.
24. The Contractor shall commence work under this Contract as specified in the Notice to Proceed at the location specified by the Town. The Contractor shall not commence work until a conference has been held at which representatives of the Contractor and the Town is present.

### **Definitions**

**APPLICANT**-Shall mean bidder(s) who makes a formal application to this Invitation to Bid.

**COMMERCIAL**-Shall be known as a business enterprise performing activities with a profit motive.

**CONTRACTOR**-Shall mean successful bidder.

**CONTRACT**-Shall mean the Contract for Disposal of Solid Waste and Construction Debris Bulky Waste between the Town of New Durham and the Contractor, sometimes referred to as Agreement.

**CONSTRUCTION DEBRIS**-“Construction and demolition debris” means non-putrescible waste building materials and rubble which is solid waste from construction, remodeling, repair or demolition of structures. Such waste includes, but is not limited to, wood, walls coverings, plaster, dry wall, plumbing fixtures, non-asbestos insulation and roof shingles and bulky household waste.

**TOWN**-Shall be known as the Town of New Durham, New Hampshire and shall mean the Board of Selectmen for the Town of New Durham or their designee.

**HAZARDOUS MATERIALS**-Shall mean wastes that are hazardous by reason of their pathological, explosive, radiological or toxic characteristics. These type materials are Non-Collectible Waste. No hazardous wastes will be collected by the Contractor under this Contract.

**USERS**-Shall mean all New Durham residential and light commercial users served under the current program, and shall be the holder of a solid waste permit.

**RESIDENTIAL SOLID WASTE**-Shall mean all non-hazardous garbage, food wastes, rubbish, trash, etc., resulting from the normal activities of users, excluding ordinary yard wastes generated from said household.

**SOLID WASTE**-Shall mean any putrescible or non-putrescible material or refuse and discarded and/or abandoned material ordinarily discarded by occupants or residential units or by the Town but does not include hazardous (materials) wastes defined above or recyclables identified by Town Ordinances.

## **Bid Conditions**

### Hauling and Disposal of Municipal Solid Waste and Construction Debris from the New Durham Solid Waste Facility 2014

The Bidder understands that the Town reserves the right to reject any and all bids and to waive any informalities in the Bidding for any reason which the Town determines to be in the best interest of the Town.

The Bidder agrees that the Bid shall be valid and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of acceptance of this Bid, the Bidder shall execute the formal Contract attached, and deliver the Contract to the Town within 10 days.

This Bid may be accepted by the Town at any time within 60 days of the opening of Bids.

In case this Bid shall be accepted by the Town, and the undersigned shall fail to execute the Contract within 10 days from the date of Notice of Award of the Contract, the undersigned shall forfeit to the Town the security deposited with this bid as liquidated damages for the delay and additional expense by the Town caused thereby.

The full name and residence of all persons and parties interested in the forgoing Bid as principal are as follows:


Please have authorized individual(s) sign and submit with bid sheet



**Town of New Durham**

**Bid Bond**

**Hauling and Disposal of Municipal Solid Waste and Construction Debris from the New Durham Solid Waste Facility 2014**

Know all persons by these present, that we the undersigned.

\_\_\_\_\_ as Principal, and

\_\_\_\_\_ as Surety, are

hereby held and firmly unto \_\_\_\_\_

as Town in the penal sum of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )

for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

The condition of the above obligation is such that whereas the Principal has submitted to the Town, a certain Bid, attached hereto and hereby made a part hereof to enter into a Contract in writing for

**“Town of New Durham Hauling and Disposal of MSW and C&D 2014”**

Now Therefore:

- (a) If said bid is rejected, or in the alternative;
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of a Contract attached hereto (properly completed in accordance with the Bid) and shall furnish a bond for his faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said bid, then this obligation shall be void, otherwise the same shall remain in force and effect: it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said surety and its bond shall be in no way impaired or affected by any extension of time within which the Town may accept such Bid: and said Surety does hereby waive notice of extension.

In Witness whereof, The Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_ (LS)

\_\_\_\_\_  
Surety

\_\_\_\_\_  
(Seal)

**Hauling and Disposal of Municipal Solid Waste and Construction Debris from the  
New Durham Solid Waste Facility 2014**

**NOTICE OF AWARD**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Description: \_\_\_\_\_

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The Town has considered the Bid submitted by you for the above described work in response to its Invitation To Bids dated \_\_\_\_\_ and General Provisions to Bidders.

You are hereby notified that your Bid has been accepted for items (Same as above).

You are required by the General Provisions to Bidders to execute the Agreement and furnish the required Contractor's Performance and Payment Bonds, or approved alternative bonding method and certificates of insurance within ten calendar days from the date of this Notice to you.

If you fail to execute said Agreement within ten days from the date of this Notice, said Town will be entitled to consider all your rights out of the Town's acceptance of your Bid as abandoned. The Town will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the Town.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

Town:  
Town of New Durham NH

By: \_\_\_\_\_

Title: \_\_\_\_\_

Acceptance of Notice

Receipt of the above Notice of Award is hereby acknowledged by: \_\_\_\_\_

\_\_\_\_\_, this the \_\_\_\_\_ day of

\_\_\_\_\_, 2013. Title: \_\_\_\_\_

# Agreement

## Municipal Solid Waste and Construction Debris/Bulky Waste Hauling/Disposal Agreement

This Agreement made and entered into as of this \_\_\_\_ day of January, jointly between the Town of New Durham, with a business address of PO Box 207, New Hampshire (hereinafter referred to as the "Town"), and \_\_\_\_\_, with a business address of \_\_\_\_\_ hereinafter referred to as "Contractor".

Whereas, the Town operates a solid waste transfer station at 56 Tash Road, in accordance with applicable laws of New Hampshire for the benefit to its residents,

Whereas, the Town desires the Contractor to collect and dispose of its municipal solid waste and construction debris from the transfer station,

Now therefore, in consideration of the mutual covenants, agreements, and considerations contained in the Agreement, the Town and the Contractor hereby agree as follows:

1. **Definitions:** For the purpose of this Agreement, the following terms **shall apply**:

a. **Transfer Station** – Shall mean a facility owned and operated by the Town, developed for the receipt and processing of municipal solid waste and construction debris, and for the ultimate transport by the Contractor.

b. **Disposal Site** – Shall mean a disposal site qualified to accept Acceptable Solid Waste as defined by New Hampshire State and Federal Laws and construction debris including bulky waste.

c. **Acceptable Waste** – Shall mean non-baled municipal solid waste (MSW) and construction debris, which includes bulky waste items, that is disposed of in the ordinary course generated by household and commercial establishments within the Town which shall not contain any Special Waste, Hazardous Waste or Unacceptable Waste as defined by New Hampshire State and Federal Laws.

2. **Terms:** The term of this agreement shall be for a period of three years, **beginning January 1, 2014 and expiring on December 31, 20\_\_** unless sooner terminated as provided herein. The foregoing notwithstanding, it is agreed and understood that the Town may terminate this contract without further liability to the Contractor except for the payment of services rendered to date if the governing body of the Town having cognizance has not approved funding therefore at its annual Town Meeting. The Town

may enter into a multiyear agreement as stipulated in the terms written in the "Bid Submission of August 16, 2013".

3. Scope of Services: During the entire agreement period the Contractor shall provide and maintain their equipment to service the transfer site. The equipment shall be kept in good repair, appearance and in a sanitary condition by the Contractor. The Contractor shall haul the acceptable municipal solid waste and approved construction debris to a lawfully approved disposal site, when requested by the Town.

4. Hauling: The Contractor shall furnish all labor, vehicles, materials, and equipment for the work. All solid waste hauled by the Contractor from the Transfer Station site shall be contained, tied, or enclosed so that leaking, blowing, or spilling are prevented. In the event of spillage or overflow, the Contractor, at his expense, shall immediately clean up the litter. The Contractor agrees that he will haul the roll-off containers to a legal permitted facility to be emptied as soon as reasonably practical after the Transfer Station was open last, and definitely prior to the next open day to prevent possible spillage from overflow from the roll-off containers, unless notified that the roll-off containers are not full and hauling is scheduled for a later date by the town. If required the Contractor will be available with a (24) twenty four hour notice to provide equipment and labor to exchange roll-off containers at the transfer station facility in the Town of New Durham.

5. Compensation: The Town agrees to pay the Contractor as compensation hereunder:

Per written "Bid Submission dated August 16, 2013", for three years:

a. For the transportation of municipal solid waste (MSW) to the disposal site:

Known as MSW Haul Fee for \_\_\_ years \$ \_\_\_ per haul

b. For disposal of MSW at the disposal site:

Known as MSW Disposal Fee for \_\_\_ years \$ \_\_\_ per Ton

c. For the transportation of municipal construction debris, including bulky waste (C & D) to the disposal site:

Known as Construction Debris Haul Fee for \_\_\_ years \$ \_\_\_ per haul

d. For disposal of municipal construction debris, including bulky waste (C & D) at the disposal site:

Known as municipal construction debris, including bulky waste (C & D) Disposal Fee for \_\_\_ years \$ \_\_\_ per Ton

e. Rental on 30 yd Roll- Off – Open Top Containers:

\$ \_\_\_ per month, fee will be waived if at least one haul occurs per month for \_\_\_ years

6. Independent Contractor: Contractor shall perform this Agreement as an independent contractor and as such, shall have and maintain complete control over all its employees, agents and operations. Neither Contractor nor anyone employed by it shall be, represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of the Town.

7. Insurance: The Contractor shall purchase and maintain for the duration of this Agreement an insurance policy with a minimum of one million dollars (\$1,000,000.00) in liability coverage. The Contractor shall provide the Town a certificate of insurance for said policy naming the Town as additionally insured and indicating coverage per terms of this Agreement for the period of performance of this Agreement.

8. Compensation: The Contractor shall bill the Town monthly for fees incurred during the previous month. The Town shall pay the Contractor on monthly invoices submitted by the Contractor, after being approved by the Town of New Durham, on terms of net 30 days . Reports and Invoicing: A copy of all weight tickets shall be sent to the Solid Waste Facility Office Manager, preferably by e-mail, as soon as reasonably possible following all hauls. At a minimum the weight tickets will have the following data recorded: Date of haul; total tonnages, tonnage for the load, identification of the load, MSW or C & D; if the haul is part of a tandem haul. At a minimum the monthly invoices shall include identification of the type of material hauled (example MSW or C & D), list individually the hauling and disposal cost, with tonnages for each load, the date of the haul and total cost for each individual load

9. Inspections: The Town shall have the right to inspect and obtain copies of all written licenses, permits and approvals issued by any federal, state or local governmental entity or agency, to Contractor which are applicable to the performance of this Agreement and with seventy-two hours prior written notification to the Contractor and during normal business hours to inspect the Disposal Site and its operations for compliance with applicable federal, state and local laws, regulations and rules specifically pertaining to solid waste disposal.

10. Excuse of Performance: The performance of and obligations under this Agreement, except for the payment of the money for services already rendered, may be suspended by either party in the event the transportation or the disposal of the MSW and C & D are prevented by cause or causes beyond the reasonable control of such party. Such caused shall include, but not limited to acts of God, acts of war, riot, fire, explosion, accident, floods or sabotage, lack of adequate fuel, power; changes in governmental laws and regulations or interpretations thereof, rule making, permits, approvals, requirements, orders or actions which significantly affect the Transfer Site or the Disposal Site, public outcry; national defense requirements; injunctions or restraining orders, so long as such acts are not caused by the Contractor.

11. Indemnification: The Contractor shall indemnify and hold harmless the Town, its agents and employees against and from all actions, suits, liabilities, settlements, losses, demands, damages, penalties, fines, counsel fees and all other expenses relating to or arising from any and all claims of every nature or character due to the agents, employees or attorneys and any collection of any accounts or bills on behalf of the Town made pursuant to this agreement. None of the foregoing provisions shall deprive the Town of any action, right or remedy otherwise available to it under law. In the event that the Contractor is requested to honor the indemnity obligation hereunder, then the Contractor shall, in addition to all other obligations, pay the Town the cost of bringing any action at law or in equity,

including but not limited to attorney's fees, to enforce indemnity. The Contractor's obligation to indemnify as provided herein shall survive the termination or expiration of this agreement, and shall not be limited or diminished by the presence, absence, or amount of insurance as requested herein.

12. Arbitration: Any controversy or dispute arising out of or relating to this agreement or the breach thereof shall be settled by arbitration. The parties shall select the arbitrator. The arbitrator shall adopt appropriate arbitration rules similar to the American Arbitration Association. The place of arbitration shall be in New Durham, New Hampshire. The arbitration hearing shall be held within sixty (60) days after the notice of arbitration is delivered by one party to the other party. In the event the parties are unable to agree on the arbitrator then application can be made to Strafford County Superior Court under RSA Chapter 542. The arbitrator shall also have power to determine interpretation of any provision of this agreement and is to issue an order to cure a violation. The cost of the arbitrator shall be shared equally by the parties.

13. No Assignments: Neither party may assign, transfer, broker or otherwise vest in any other company, entity or person, any of its rights or obligations under this Agreement without first obtaining the prior written consent of the other party which consent shall not be unreasonably withheld.

14. Successors and Assigns: This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

15. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire.

16. Miscellaneous: If any provision of this Agreement or any portion of such provision, or application thereof to any circumstance or person is held invalid, the remainder of this Agreement, or the remainder of such provision, and the application thereof to their persons or circumstances shall not be affected thereby.

17. Termination: In the event either party fails to perform as required under the terms of this Agreement; and if the default is not cured within a prescribed time, the Agreement may be terminated by giving an advance (90) ninety day written notice to the defaulting party.

18. Entire Agreement: This Agreement represents the entire understanding reached between the parties hereto with respect to the subject matter contained herein. This Agreement may not be modified or amended except in writing signed by both parties.

19. The term "Contract Documents" means and includes the following:

- a. Invitation for Bids
- b. Specifications
- c. Special Conditions (if any)
- d. Bid Sheet

- e. Notice of Award
- f. Agreement
- g. Notice to Proceed
- h. General Provisions
- i. Supplemental General Provisions (if any)
- j. Change Orders (if any)
- k. Drawings (if any)
- l. Technical Specifications
- m. Insurance
- n. Addenda

No: #1Historical Data Hauling and Tonnages MSW and C & D/Bulky Waste, Dated June 30, 2013

No: \_\_\_\_\_, Dated \_\_\_\_\_ 2013

In Witness Wherefore, the parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

Contractor Services

Town of New Durham NH

\_\_\_\_\_  
Authorized to Sign for the Company

\_\_\_\_\_  
Authorized to Sign for the Town

\_\_\_\_\_  
Date

\_\_\_\_\_  
(please type)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Note: If the Contractor is a corporation, an affidavit giving the principal the right to sign the Contract must accompany the executed Contract.

**Notice to Proceed**

To: \_\_\_\_\_

Date: \_\_\_\_\_

Project: \_\_\_\_\_  
\_\_\_\_\_

You are hereby notified to commence Work in accordance with the Agreement dated \_\_\_\_\_, 2013 on \_\_\_\_\_ and you are to complete the Work within (-) consecutive calendar days thereafter. The date completion of all Work is therefore (-----).

TOWN:

Town of New Durham New Hampshire

By: \_\_\_\_\_

Title: \_\_\_\_\_

ACCEPTANCE of NOTICE

Receipt of the above Notice to PROCEED IS HEREBY ACKNOWLEDGED

By: \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

By: \_\_\_\_\_, Title : \_\_\_\_\_



# CHANGE ORDER No. \_\_\_\_\_

PROJECT: \_\_\_\_\_

DATE OF ISSUANCE: \_\_\_\_\_ TOWN: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_ ENGINEER: \_\_\_\_\_

*You are directed to make the following changes in the Contract Documents.*

DESCRIPTION: \_\_\_\_\_

REASON FOR CHANGE ORDER: \_\_\_\_\_

ATTACHMENTS: \_\_\_\_\_

<b><u>CHANGE IN CONTRACT PRICE</u></b>	<b><u>CHANGE IN CONTRACT TIME</u></b>
ORINGINAL CONTRACT PRICE: \$	ORIGINAL CONTRACT TIMES: SUBSTANTIAL COMPLETION: FINAL COMPLETION:
Net changes from previous change orders No. ___ to No. ___ \$	Net Changes from Previous Change Order: No. ___ to No. ___ \$
Contract Price Prior to this Change Order \$	Contract Time Prior to this Change Order SUBSTANTIAL COMPLETION: FINAL COMPLETION:
Net Increase or Decrease of this Change Order \$	Net Increase or Decrease of this Change Order (Days)

<b>Contract Price with all approved Change Orders:</b> \$	<b>Contract Time with all approved Change Orders:</b> <b>SUBSTANTIAL COMPLETION:</b> <b>FINAL COMPLETION:</b>
--	---

Recommended: Foreman  
By: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved: Town  
By: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved: Contractor  
By: \_\_\_\_\_  
Date: \_\_\_\_\_