



## Town of Nags Head

Post Office Box 99  
Nags Head, North Carolina 27959  
Telephone 252-441-5508  
Fax 252-441-0776  
www.townofnagshead.net

NORTH CAROLINA  
DARE COUNTY

SERVICE CONTRACT  
PURCHASE ORDER # \_\_\_\_\_

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

*KIN SRM*  
(CONTRACTOR initials)

THIS CONTRACT is made and entered into this the 3<sup>rd</sup> day of October 2012, 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 Soundside Recycling & Materials, Inc. 7565 Caratoke Hwy. Jarvisburg, NC 27947, (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:

Grinding of all brush including but not limited to trees and limbs located on the brush yard at 2211 S. Lark Avenue, Nags Head, NC., across from the Public Works complex, being within the TOWN's standard of acceptable finished product.

Total contract price shall be no more than \$13,000.00 (Thirteen thousand dollars and no cents), in accordance with CONTRACTOR'S quote submitted on September 13, 2012 (copy attached).

It is mutually agreed by and between the TOWN and CONTRACTOR that construction under this contract is scheduled to commence on October 8, 2012. The contract completion date shall be October 20<sup>th</sup>, 2012 with time being of the essence. If CONTRACTOR fails to complete work under this contract by October 20<sup>th</sup>, 2012, the TOWN will be damaged thereby, and because the amount of the TOWN's damages, inclusive of expenses for inspection, superintendence and necessary traveling expenses is difficult if not impossible to definitely ascertain and prove, it is hereby agreed that the amount of such damages shall be one hundred dollars and no cents \$100.00 as liquidated damages for every day's delay in finishing the work in excess of the completion date prescribed; and the CONTRACTOR hereby agrees that said sum shall be deducted from monies due the CONTRACTOR under the contract or, if no money is due the CONTRACTOR hereby agrees to pay to the TOWN as liquidated damages, and not by way of penalty, such total sum as shall be due for such delay computed aforesaid.

2. DESCRIPTION OF PROJECT

Work under this contract consists of grinding of all brush that is located at the TOWN's brush yard at 2211 S. Lark AVENUE, Nags head, NC 27959. The grinder must use a 2 inch screen. 50% of the pile will be ground larger in size and the remaining 50% will be grounded smaller in size to produce the material that will be used for mulch. All material will be left on site.

3. TERM OF CONTRACT

The term of this CONTRACT for is from October 3, 2012 to October 30, 2012. Either party may nonetheless cancel this contract on thirty (30) days written notice to the other party by certified mail or personal delivery. This contract is subject to the availability of funds to purchase the specified SERVICES and may be terminated at any time if such funds become unavailable.

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 during which SERVICES are performed. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice.

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 but 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 and the parties hereby submit to venue in and the personal jurisdiction of the said Courts.

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.

Witnessed or Attested By:

Miscellaneous



**TOWN OF NAGS HEAD**

By: Curtis

Title: Town Manager

Date: 10-5-12

Handwritten signature

Corporate Seal:

**CONTRACTOR**

By: Kimberly Newbern

Printed Name: Kimberly Newbern

Title: president

Date: 10/5/12

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

Handwritten signature  
Finance Officer

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

Robert B. Hobbes  
TOWN ATTORNEY

**Soundside Recycling & Materials, Inc.**

7565 Caratoke Hwy.  
Jarvisburg, NC 27947

Phone # 252-491-8666 soundsiderecycle@embarqmail.com  
Fax # 252-491-5454 www.soundsiderecycling.com

**Proposal**

Date	Proposal No.
9/13/2012	256

NAME / ADDRESS
Nags Head Public Works Karen Castello P.O. Box 99 Nags Head, NC 27959

Terms
Due on receipt

DESCRIPTION	QTY	COST	TOTAL
Grinding of Wood Debris at Public Disposal site. Grinding to same consistency as we did in January 2011.		13,000.00	13,000.00
<i>Thank you for your business.</i>		<b>TOTAL</b>	<b><u>\$13,000.00</u></b>

All material as specified and the above work performed in accordance with the specifications submitted for above work and completed in a substantial workmanlike manner for the sum of:

\$13,000.00 Dollars

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to complete this contract as specified. Payment will be made as outlined.

Date of acceptance: \_\_\_\_\_

Signature: \_\_\_\_\_



**THE TOWN OF NAGS HEAD**  
 P.O. BOX 99  
 NAGS HEAD, NC 27959  
 TEL (252) 441-5508 • FAX (252) 441-4680

**PURCHASE ORDER**  
 THIS NUMBER MUST APPEAR ON ALL INVOICES,  
 PACKING LISTS, CORRESPONDENCE, ETC.  
 No. **13-00889**

Pg 1

SHIP TO

PUBLIC WORKS % KAREN HEAGY  
 TOWN OF NAGS HEAD  
 2200 LARK AVE  
 NAGS HEAD, NC 27959

VENDOR

VENDOR #: SOUND030  
 SOUNDSIDE RECYCLING & MATERIAL  
 7565 CARATOKE HWY  
 JARVISBURG, NC 27947

ORDER DATE: 10/03/12  
 REQUISITION NO: R1300295  
 DELIVERY DATE:  
 STATE CONTRACT:  
 F.O.B. TERMS: Destination

**MAIL IN INVOICE TO:** ATTN: ACCOUNTS PAYABLE  
 P.O. BOX 99  
 NAGS HEAD, NC 27959

Phone: (252)491-8666 Fax: (252)491-5454

QTY/UNIT	DESCRIPTION	ACCOUNT NO.	UNIT PRICE	TOTAL COST
1.00	Grinding of Brush	3-10-580-5-5445-00 CONTRACTED SERVICES	13,000.0000	13,000.00
			TOTAL	13,000.00

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE MANNER  
 REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND  
 FISCAL CONTROL ACT.

FINANCE OFFICER

PURCHASING AGENT

Please contact the Town of Nags Head if the prices indicated are not correct. The Town of Nags Head will not be responsible for incorrect pricing after the Purchase Order is received by vendor for processing.