



FINANCIAL & ADMINISTRATIVE SERVICES

November 2, 2018

TO: David Parrish, City Manager

From: Chris S. Payne, Deputy Finance Director Administrative Services

SUBJECT: Emergency Service Contract Authorization

Background:

The Procurement Services Division received a request (requisition) for a purchase order to contract and pay for emergency Sludge Hauling at the TZO - WWTF. It is our understanding that the emergency was created by a failure of incinerator #1 while maintenance was being performed on incinerator #2. As a result, TZO was unable to incinerate sludge causing elevated levels and the potential for state compliance issues with phosphorus removal. The emergency sludge hauling was required until maintenance on incinerator #2 was completed and normal processing was resumed.

Water Resources has a contract with Hilco Transport, Inc. to haul sludge as required. However, the contract approved by City Council, is for an amount not to exceed \$97,800 per year. Hauling services required as a result of both incinerators being down totaled \$197,437.60 exceeding the authorization for the existing contract.

City Ordinance Chapter 2, Article 3, Division 4, Section 2-90 provides for the City Manager to contract for amounts in excess of his authority (service contracts less than \$100,000) in the event of a special emergency involving the health and safety of the people or their property provided he notify council as soon as practical, and place the contract on the next agenda for review and ratification. The crisis with the failed incinerator meets the criteria of an emergency situation under Sec. 2-90.


Recommendation:

The Procurement Services Division requests (1) your approval to process a purchase order in the amount of \$197,437.60 for the emergency expenditures incurred during the incinerator outage, (2) that City Council be notified, and (3) the contract be placed on the next Council agenda for ratification.

Financial Information:

Account: 501-7056-01.5437

Approved: _____


David Parrish, City Manager
CHRIS WILSON, ASST.

Concurring:

Kristine Williams, Water Resources Department
Jennifer Schneier, Legal Department



CITY OF GREENSBORO
 Purchasing Division - P.O. Box 3136
 Greensboro, North Carolina 27402-3136
 Phone No. (336) 373-2192
 Fax No. (336) 373-2544

BILL TO:

City of Greensboro Accounting Division
 PO Box 3136
 Greensboro, North Carolina 27402-3136

Purchase Order

SUPPLIER ADDRESS
Hilco Transport Inc PO Box 35049 Greensboro, NC 27425

PO DATE	PO NUMBER
11/01/2018	66048
PO REVISION #	PO REVISION MESSAGE
Original	

PO HEADER COMMENTS	PO SHIP TO ADDRESS
Deliver on 11/1/2018 unless specified by line	TZ Osborne Warehouse 2350 Huffine Mill Road McLeansville, NC 27301

SHIP VIA	FOB	FREIGHT TERMS	BUYER	PMT. TERMS	VENROR #
	Destination	Delivered	Carol Pyrtle 336-373-2190	Net 30 days	1689
LINE	QTY	UOM	ITEM NO./DESCRIPTION	UNIT PRICE	EXTENDED PRICE

1 197,437.60 DL RESIDUAL HAULING 1.0000 197,437.60

SERVICES

Attachment 1, Contract between the City of Greensboro and Hilco Transport, Inc. is attached hereto and incorporated herein by reference.

Trailer Comments:

SUBTOTAL 197,437.60
 TAXES 0.00

EXTENDED PO TOTAL 197,437.60

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

Dale Dillon
 Purchasing Manager

OCB WCP

Dale Dillon

CITY OF GREENSBORO

PROFESSIONAL SERVICES CONTRACT

This contract made and entered into November 1, 2018, by and between the City of Greensboro, a municipal corporation of the State of North Carolina (hereafter referred to as the City) and HILCO TRANSPORT, INC. (hereafter referred to as the Consultant).

WITNESSETH:

Professional Services Rendered

In consideration of the monetary payment hereinafter described in Attachment A, attached hereto and made a part hereof, the Consultant will provide services to haul residual dewatered sludge from the T.Z. Osbourne Waste Water Treatment Plant set forth by this contract.

Relationship

The Parties in this contract agree that the Consultant is a professional corporation, and that the relationship created by this contract is that of employer and independent contractor. The Consultant is not an employee of the City of Greensboro, and is not entitled to the benefits provided by employer to its employees, including, but not limited to, group insurance and pension plan. The Consultant may practice his profession for others during those periods when the Consultant is not performing work under this contract for the City.

Supervision and Inspection

In the performance of the work contemplated in this agreement, the Consultant is an independent contractor with the authority to control and direct the performance of the details of the services that are the subject of this contract. However, the work contemplated in this agreement must meet the approval of the City and shall be subject to City's general rights of inspection and supervision to secure the satisfactory completion thereof.

Specific Duties & Responsibilities

The specific duties and responsibilities of the Consultant shall include but not be limited to the following:

1. Provide a price per ton to haul the residuals.
2. Provide a list of the equipment that will be used for the hauling.
3. Clean up of the loading areas at the end of each day.
4. If the tailgates on the Contractor's dump beds leak, lining the trucks with leak-proof liners, will be necessary (liners to be supplied by the Contractor).
5. All loads on dump trucks or trailers must be covered before leaving the plant site.
6. Cleanup of spills from trucks, whether on plant site or in route to the landfill.
7. Stockpiling of sludge on site will not be allowed. Loaded trucks are not to remain on Site for any longer than six hours.

Term

The term of this Agreement shall not exceed one (1) year from the entered into date of this contract.

Compensation

The City agrees to pay the Consultant an amount not to exceed \$197,437.60. The Consultant will be paid as detailed in Attachment A, attached hereto and made a part hereof.

Payments on this contract are contingent upon sufficient appropriations being approved by City Council in succeeding fiscal years. Bills for fees or other compensation for Services or expenses shall be submitted to the City in detail sufficient for a proper preaudit and postaudit thereof. Consultant will complete project work within the timeframe that hauling services are needed.

Invoices

1. Submittal

Invoices to the City for compensation shall be submitted not more often than monthly. Invoices will be based on 100% of the work completed during the preceding month.

2. Receipts Required

Where invoices are based in part on reimbursable expenses, the Consultant shall collect and maintain receipts for said expenses and shall make the receipts available to the City, if requested. The requirement to retain receipts shall generally follow the established rules of the Federal Internal Revenue Service regarding what type of expenditure must be supported by receipts for income tax purposes.

3. Disputed Items

If any items in any invoices submitted by the Consultant are disputed by City for any reason, including the lack of supporting documentation, City shall temporarily delete the item(s) and shall promptly notify the Consultant of dispute and request clarification and/or remedial action. After the dispute has been settled, the Consultant shall include the disputed item on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only. The undisputed portion of the invoices shall, however, be paid within the normal 30-day period.

Payment of Taxes and Insurance

The Consultant assumes full responsibility for the payment of all assessments, payroll taxes, or contributions, whether State or Federal, as to all employees engaged in the performance of work under this contract. In addition, the Consultant agrees to pay any and all gross receipts, compensation, transaction, sales, use, or other taxes and assessments of whatever nature and kind

levied or assessed as a consequence of the work performed or on the compensation paid under this contract.

Insurance

During the performance of the services under this Agreement, the Consultant shall maintain the following insurance:

1. General Liability Insurance, including but not limited to coverage for all premises and non-premises operations, independent contractors, broad form property damage coverage, including explosion, collapse and underground property damage hazards, personal injury liability protection including coverage relating to employment of persons, contractual liability protection, and products and completed operations coverage. This insurance shall provide bodily injury limits of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate, and with property damage limits of not less than \$500,000 for each occurrence and not less than \$500,000 in the aggregate. The General Liability Insurance shall name the City of Greensboro as an additional insured, and the insurance shall be primary and non-contributory to any other insurance that may be available to the City.
2. Professional Liability Insurance with limits of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate. This Professional Liability Insurance shall provide coverage for the claims concerning the Contractor's errors and omissions for the scope of services provided to the City under this Agreement, including but not limited to, claims concerning the preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications, and claims relating to supervisory, inspection, architectural or engineering activities,
3. Automobile Liability Insurance, covering owned, non-owned, hired vehicles and trailers using in connection with this project. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/aggregate.
4. Worker's Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than \$100,000 for each occurrence. In case any work is sublet under this Agreement, the Consultant shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor's employees to be engaged in such work. This Agreement shall be void and of no effect unless the Consultant shall secure and keep in effect during the term of this Agreement the Consultant's compliance with the provisions of the Worker's Compensation laws of the State of North Carolina.

Consultant shall furnish certificates of insurance and a copy of the insurance policies for all of the insurance coverages described herein within ten (10) days after this Agreement is ratified and certified copies of any amendments and/or renewals to the policies which occur thereafter. At least thirty (30) days written notice shall be given to the City prior to any cancellation, modification or non-renewal of any insurance required under this Agreement.

Amendments

Alterations, deletions, and/or additions to the terms and conditions of this contract may only be made by the mutual written consent of the parties.

Conflict of Interest

No officer, employee or agent of the City, and no sub-grantee or sub-recipient of any federal or state funds from the City shall participate in the selection or in the award or administration of a contract supported by federal, state, or City funds if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when any of the following persons or entities has a financial or other interest in the firm selected for the award:

- (i) The employee, officer, agent;
- (ii) Any member of his immediate family;
- (iii) His or her partner; or
- (iv) An organization which employs, or is about to employ, anyone listed in (i) through (iii) above.

The grantee's or sub-grantee's officers, employees or agents will not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements except as may be allowed in the City's Gift Policy, B-20.

The Definitions for the terms Officer, Employee and Agent as used in this Section are as follows:

- a. **Officer** - An individual who is elected to or appointed to serve or represent the City of Greensboro, other than an employee or independent contractor of the City.
- b. **Employee** - Those individuals who are employed at will by the City of Greensboro for remuneration, whether full time or part time, benefited or non-benefited, and are charged with implementing City policies and City Council goals and objectives.
- c. **Agent** - Those individuals or companies who are authorized to act on behalf of the City and who provide services or products, whether contractual or not.

Termination for Convenience

The City, in its sole discretion, may terminate this Agreement in whole or in part whenever the City determines that said termination is in its best interest. Any such termination shall be effected by the delivery to the Consultant of a written notice of termination thirty (30) days before the effective date of the termination.

Failure to Comply With Terms of Contract

Should the Consultant fail to comply with the terms of this contract, the Consultant, upon actual or constructive notice of the default shall have thirty (30) days to remedy the default. Should the Consultant fail to remedy the default, the contract is terminated immediately upon the expiration of the thirty (30) days.

Rights

City retains the exclusive rights to cancel, stop or re-schedule any or all services associated with the Contract.

Non-Discrimination Requirements

As a condition of entering into this agreement, the Contractor represents and warrants that it will comply with the City's Commercial Nondiscrimination Policy, as described under Section V. A. 1 of the M/WBE Program Plan. As part of such compliance, the Contractor shall not discriminate on the basis of sex, race, gender, color, ethnicity, national origin, age, familial status, marital status, military status, political affiliation, religion, physical or mental disability, genetic information, sexual orientation, gender expression, or gender identity, nor shall the Contractor retaliate against any person for reporting instances of such discrimination. The Contractor shall provide equal opportunity for Subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the City's Relevant Marketplace. The Contractor understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the Contractor from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

Compliance With Applicable Law

Any term or condition of the Contract which by operation or existence is in conflict with applicable Local, State, or Federal Law shall be rendered void and inoperative. City and the Consultant agree to accept the remaining terms and conditions.

Indemnification

The Consultant does hereby agree to indemnify and save harmless the City of Greensboro, its officers, agents and employees, against all claims, actions, lawsuits and demands, including reasonable attorney fees, made by anyone for any damages, losses or injuries of any kind, including environmental, which may arise from the sole negligence of Consultant, its agents or employees, or as a result of work performed pursuant to this Contract.

Severance

Should any part of this contract be declared unenforceable, all remaining sections remain in force.

Non-Assignment

The Consultant without the written approval of the City shall not assign this contract.

Governing Law

This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of North Carolina. Venue for any legal action resulting from this Agreement shall lie in Guilford County.

Scope of Agreement

This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made.

Confidentiality

The Recipient will not disclose to any third party, or make any use of the Discloser's Confidential Information except as required by the North Carolina Public Records Act. The Recipient will use at least the same standard of care to maintain the confidentiality of the Discloser's Confidential Information that it uses to maintain the confidentiality of its own Confidential Information, but in no event less than reasonable care. The obligations hereunder will remain in full force with respect to each item of Confidential Information for a period of ten (10) years after Recipient's receipt of that item. However, The City's obligations to maintain software as confidential will survive in perpetuity. "Discloser" means the party providing Confidential Information to the Recipient. "Recipient" means the party receiving Confidential Information from the Discloser. "Confidential Information" means non-public information of a party to this Agreement that is identified as or would be reasonably understood to be confidential and/or proprietary and is marked "confidential" and meets the requirements of North Carolina General Statutes 132-1.2. Confidential Information does not include information that: (i) is or becomes known to the public without fault or breach of the Recipient; (ii) the Discloser regularly discloses to third parties without restriction on disclosure; (iii) the Recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation; or (iv) is independently developed by the Recipient without access to Confidential Information.

Pursuant to the North Carolina Public Records Act, trade secrets or confidential information as defined by the North Carolina Public Records Act that are identified as such prior to disclosure to the Recipient is not public information and will not be released to the public by the Recipient except as set out below. Recipient will notify Discloser of any public records request, and if Discloser objects to Recipient disclosing any of the records responsive to the request, Discloser will notify the Recipient in writing within forty-eight (48) hours. If so notified, Recipient will not disclose the records until ordered to do so by a court of competent jurisdiction, and Discloser will enter an appearance as a party in-interest and defend Recipient in any claim, suit, mediation, litigation, or arbitration proceeding concerning the release of the records to which Discloser objected. Discloser will indemnify, save harmless, and pay any and all attorney's fees incurred by Recipient, and any attorney's fees Recipient is ordered to pay to any person(s) or organization(s) as a result of Discloser's objection to the release of the public records. Discloser will also indemnify, save harmless, and pay any and all claims for damages, court costs, or other fees

Recipient incurs as a result of Discloser's objection to the release of the records requested pursuant to the North Carolina Public Records Act.

E-Verify

The Consultant certifies that it currently complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and that at all times during the term of this Contract, it will continue to comply with these requirements. Consultant also certifies that it will require that all of its subcontractors that perform any work pursuant to this Contract to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Violation of this section shall be deemed a material breach of this Contract.

Iran Divestment Act Certification

As of the date of this Agreement, the Contractor certifies that it is not listed on the Final Divestment List created by the State Treasurer pursuant to NCGS 147-86.58 and that the Contractor will not utilize any subcontractor found on the State Treasurer's Final Divestment List. All individuals signing this Agreement on behalf of the Contractor certify that they are authorized by the Contractor to make this certification.

This space is left blank intentionally.

DEMURRAGE	\$75 / HR
DISPOSAL FEE	\$41.98 / TON
MOBILIZATION	\$2400 FLAT
VEHICLE CLEANING	\$500 / UNIT
LOAD AREA CLEANUP	\$140 FLAT
SUPPLIES	\$2000 FLAT

Please let me know if you need anything else.
Thank you,

Connie Holder
Dump Transport Dispatch
Hilco Transport, Inc.
PO Box 35049
Greensboro, NC 27425
Phone: 336-389-4023
Fax: 336-389-4044
e-mail: cholder@hilcotransport.com

