



REQUEST FOR BOARD ACTION

ITEM NO. 23.

DATE OF MEETING: June 22, 2009

REQUESTED BY: Michael G. Mack, Director, PCU

SHORT TITLE: Resolution by the Board of Commissioners Authorizing Execution of a Contract with Central Carolina Tire for the Management of the Scrap Tire Disposal Program in Pender County.

BACKGROUND: For the past five (5) years, Pender County has had a contract with Central Carolina Tire to haul tires from designated areas in Pender County to their disposal facility in Cameron, NC. The cost is \$61 per ton plus \$275 per haul. In addition, this year they wish to add a fuel surcharge based on the cost of diesel fuel (Verified via the "Energy Information Administration Diesel Fuel Hotline) on a weekly basis. If Diesel fuel is established to be \$2.00 or more per gallon, the fuel surcharge runs, on an incremental scale from \$.05 to \$.60 per mile.

Staff wishes to continue the same relationship with Central Carolina Tire, but would also like to have time to evaluate the possibility of using other vendors. In addition, our Solid Waste Management Plan may recommend a different course of action for the disposal of tires. To that end, staff attempted to negotiate with Central Carolina Tire to allow us to enter into this contract on a year-to-year basis. They would agree only to a minimum three (3) year contract.

Although the cost to provide the service will increase (due to the new fuel surcharge), staff has been diligent in applying for scrap tire grants that bring additional revenues to this program. The County has already received \$7,395 from the Scrap Tire Disposal Account which is in addition to the tire fees collected from the sale of new tires, which is distributed on a per capita basis twice per year.

Staff recommends the Board consider entering into this contract for a period of three (3) years.

SPECIFIC ACTION REQUESTED: The Board is requested to approve a three (3) year contract with Central Carolina Tire to manage the scrap tire disposal program in Pender County.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

RB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED, by the Pender County Board of Commissioners that

The attached contract with Central Carolina Tire is authorized for a period of three (3) years for the management of the scrap tire program in Pender County. The Chairman/County Manager is authorized to execute any and all documents to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Tate ___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman 06/22/09
Date

ATTEST 06/22/09
Date

STATE OF NORTH CAROLINA
PENDER COUNTY
CENTRAL CAROLINA HOLDINGS LLC.

SCRAP TIRE RECYCLING & DISPOSAL CONTRACT

This Scrap Tire Recycling and Disposal Contract (" Contract") made and entered on this 1st day of July , 2009 (Anniversary date), by and between Pender County, a political subdivision of the State of North Carolina, hereafter referred to as " County" and Central Carolina Holdings, LLC, a North Carolina Corporation, with principal business offices located at 1616 McKoy Town Road, Cameron,28326, hereinafter referred to as " Contractor".

WITNESETH

WHEREAS, the County chooses to recycle its scrap tires when possible and has determined that this service can best be provided through a service contract with a qualified firm; and

WHEREAS, the Contractor is qualified to provide collection, transportation, recycling and disposal of tires and other scrap rubber and has the necessary equipment, personnel, facilities, expertise, financial resources and management skills to provide a high level of service.

1) Scrap Tire Volume Generated

It is unknown how many scrap tires that the County receives at its Convenience Centers annually. However, the Contractor understands that the County does not control the scrap tire waste stream and that there is no guaranteed volume that will be received during the term of this contract.

2) Recycling and Disposal Services

a) Contractor Responsibilities

The contractor agrees to stage four (4) trailers at County Convenience Centers with two (2) tire trailers at Rocky Point, One (1) tire trailer in Atkinson, and one (1) trailer at the Hampstead Transfer Station, and to transport, process, recycle or dispose of all scrap tires loaded in said trailer. Furthermore, the Contractor shall be responsible for hauling, processing, recycling and/or disposing of all scrap tires to 1616 McKoy Town Road Cameron, N.C., 28326 in accordance with all applicable state, federal and local environmental and safety laws, regulations, permits, ordinances, and standards.

Central Carolina Tire Disposal will cooperate and work with Pender County to clean up illegal dumps.

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b) County Responsibilities

The County shall make available ample space in a manner acceptable to Contractor to provide for efficient handling of containers and materials contained therein.

3) Term

This Contract shall be in full force and effect for a period of ^{Three (3)} ~~five (5)~~ years from the date of execution, unless terminated earlier per Section 7 (b) with automatically extended annual renewal terms at the end of each successive term unless either party notifies the other party in writing 30 days prior to the expiration of the term of his desire to terminate this contract, in which case the term shall end as scheduled.

4) Time of Performance

Contractor shall remove each loaded trailer and replace with empty trailer within forty-eight (48) hours of notice by County. The notice period shall not include Saturday, Sunday, New Year's Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas and the day after Christmas.

5) Invoices

The Contractor shall invoice the County monthly for scrap tires collected and transported since the previous invoice. Each invoice shall be according to the fees per Section 6 and the applicable weight tickets. Each invoice shall include a dated listing of the loads collected and transported indicating the weight per load, and the load origin.

6) Collection Disposal Fees

The County shall pay Contractor, for the work described in Section 2, including processing and transportation of all passenger and truck tires, the sum of \$ 61.00 per ton in addition to a flat rate of \$ 275.00 per roundtrip freight. If the price of fuel drops below \$1.30 per gallon, the freight charge will be \$250.00 per roundtrip. Contractor shall provide County with copies of weigh tickets attached to invoice. There will be a \$300.00 dead head charge if Contractor delivers a trailer to a location, directed by County, that is not disclosed in the Contract. Fuel has become very unpredictable and unusually expensive. It is important for us to maintain quality and fair service, and to do this we have developed the following process to meet our driver's needs and be fair to our customers. We call the Energy Information Administration Diesel Fuel Hotline 202-556-6966 every week on Monday to establish our fuel surcharge for the week. We establish this surcharge on the following basis.

We use \$ 2.00 as our price point,
Price Fuel Surcharge.
0- \$ 1.99 0
\$ 2.00 - \$ 2.25 .05 per mile

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\$ 2.26- \$ 2.50	.10 per mile
\$ 2.51- \$ 2.75	.15 per mile
\$ 2.76- \$ 3.00	.20 per mile
\$ 3.01 - \$ 3.25	.25 per mile
\$ 3.26- \$ 3.50	.30 per mile
\$ 3.51 - \$ 3.75	.35 per mile
\$ 3.76 - \$4.00	.40 per mile
\$ 4.01 - \$ 4.25	.45 per mile
\$ 4.26 - \$ 4.50	.50 per mile
\$ 4.51 - \$ 4.75	.55 per mile
\$ 4.76 - \$ 5.00	.60 per mile

In the event of a discrepancy between Contractor and County records, such invoice shall be paid less the amount of the discrepancy. A notice of discrepancy with supporting documentation shall be promptly sent to Contractor and the two parties shall reconcile records and invoices at the earliest possible date. Such reconciliation shall be reflected on the next invoice from Contractor.

7) Termination

This contract may be terminated according to either of the following provisions:

- a) Default: If either party hereto deems the other party hereto to be in default of any provision hereof, the claiming party shall provide notice in writing to the defaulting party of said default. If said defaulting party fails to correct the default within twenty (20) working days from the date of notice, the other party may terminate this Contract immediately. In case of such termination the party terminating this contract shall forthwith give the other party written notice of such termination.
- b) Mutual Agreement : This Contract may be terminated by mutual agreement of the parties hereto, at any time.

8) Force Majeure

a) Suspension of Performance: The performance of its duties and obligations hereunder by either party shall be suspended to the extent that such performance, in whole or in part, shall be rendered impracticable by Force Majeure.

b) Definition: Force Majeure – For purposes herein, Force Majeure shall be termed as any event or occurrence of any nature or kind in respect to the duties herein that is beyond the control of and occurs without the negligence of the party invoking the same, including without limitation: acts of God or of a public enemy, acts of government or governmental authority in either its sovereign or contractual capacity, wars, riots, fires, floods, explosions, epidemics, boycotts, excessive fuel prices, blackouts, strikes, labor disputes, equipment breakdowns, and any transportation problem directly affecting or inhibiting pickups.

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c) Notice : In the event that either party hereto determines that a Force Majeure has occurred, or it is likely to occur, said party shall promptly furnish to the other party notice in writing of such Force Majeure , setting forth the nature of such problem, the anticipated effect thereof on said party's performance hereunder and when normal performance may be expected. In the event of excessive fuel prices of over the road diesel Contractor and County will negotiate satisfactory terms for both parties involved.

d) No Unreasonable Delay: Any party hereto whose performance hereunder is delayed or prevented by a factor of Force Majeure, and said party subsequently invokes Force Majeure, shall take all reasonable steps to resume, with the least possible delay, compliance with its obligations hereunder, provided that said party shall not be required to settle any strike or labor dispute on terms not acceptable to it.

9) Representations

9.1) The Contractor represents, warrants and covenants to County that:

- a) It is an entity duly organized, validly existing and in good standing under the laws of the State of North Carolina, and is duly and validly qualified to conduct business and is in good standing in all jurisdictions in which such qualification is necessary.
- b) The execution, delivery, and performance of this Contract have been duly and validly authorized by all corporate action required to be taken and will not result in a breach of, constitute a Default under, or violate the terms of Contractor's organizational agreement, or any rule, regulation, judgment, decree, order, or agreement to which Contractor is a party or by which it may be bound.
- c) Contractor has valid rights of control with respect to its plant size.
- d) Contractor shall comply with all environmental and other applicable governmental permits, guidelines and actions during the term hereof, and has paid and will pay all valid charges and assessments in connection therewith. Contractor hereby indemnifies County against any punitive or other action resulting from or associated with Contractor's failure to do so.

9.2) County represents, warrants and covenants to Contractor that:

- a) The execution, delivery and performance of this Contract by County have been duly and validly authorized by all corporate action required to be taken and will not result in a breach of, constitute a Default under, or violate the terms of decree, order, contract or agreement to which County is a party or by which it may be bound. Concurrently herewith, County tenders unto Contractor a certified copy of the resolution of its Board of Commissioners authorizing execution and delivery of this Contract.

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10) Insurance

Contractor does hereby attest that it has general liability insurance coverage (which covers all its operations including but not limited to motor vehicle transportation) in the minimum amount of one million (\$ 1,000,000.00) dollars. A "Certificate of Insurance" affirming said coverage is attached hereto as an integral part of this Contract. County shall be listed as an additional insured under said Certificate of Insurance and a copy of said endorsement shall be provided to the County within ten (10) days of signing Contract. Contractor shall at all times during the existence of this contract maintain liability insurance coverage in the amount not less than one million (\$1,000,000.00) dollars.

11) Hold Harmless

The Contractor does hereby indemnify and hold the County free and harmless from liability on account of injury or damage to persons or property which may result from the negligent conduct or operations arising out of the business of collection, removal and transportation of tires in accordance with the terms of this contract; and in the event that any suit or proceeding is brought against the County at law or in equity, either independently or jointly with the Contractor, or either of them, on account of such negligent acts, The Contractor will defend the County in any such suit or proceeding at the cost of the Contractor, and in the event of a final judgment of decree being brought against either of them , The Contractor will pay such judgment or comply with such , decree with all costs and expenses of whatsoever nature and hold the County harmless therefrom.

12) Disputes

Any matter that arises hereunder that cannot be settled in negotiations between the parties hereto shall be handled according to the laws, legal processes and courts of the State of North Carolina. Any final decision therefrom shall be valid and binding upon the parties hereto and enforceable at law. Venue for any action arising out of this contract shall be the general court of justice, Pender County, N.C.

13) Miscellaneous

13.1) Contractor agrees to be an equal opportunity employer and not discriminate based on race, religion, or sex.

13.2) This Contract may be changed only by agreement in writing and signed by both parties hereto.

13.3) This Contract embodies the entire contract between the parties and supersedes any prior agreements and understanding, oral and /or written.

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13.4) This Contract may be executed simultaneously in two or more counterparts, each of which shall be deemed an original.

13.5) This Contract shall be governed by the laws of the State of North Carolina.

13.6) The sections and heading in the Contract are for reference purposes only and shall not effect in any way the meaning of this Contract or any part herein.

13.7) In the event that any provisions of this Contract shall be determined to be invalid, this Contract thereupon shall be deemed to have been amended to eliminate such provisions so the remaining provisions of this Contract shall be valid and binding.

13.8) All notices and other formal communications hereunder shall be made in writing and given or delivered by certified United States mail to the principal and at the address designated below. Acceptance thereof shall be deemed to constitute receipt.

Contractor

Central Carolina Holdings LLC.
1616 McKoy Town Rd.
Cameron, N.C. 28326

County

Pender County
P.O. Box 5
Burgaw, N.C. 28425

13.9) Any waiver made hereto shall be deemed to be limited in application to the matters explicitly referred to therein and shall neither be construed as, nor entitle the other party to a waiver by said party of any similar matter.

13.10) This Contract shall be binding upon and insure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Contract nor any of the rights, interests, or obligations hereunder shall be assigned by either party hereto without the prior written consent of the other party hereto, which consent shall not be unreasonable withheld or delayed.

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IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals
as of the date first above written.

COUNTY OF PENDER

BY: _____

ATTEST

CENTRAL CAROLINA HOLDINGS LLC.

BY: _____

ATTEST
