

BOARD OF COMMISSIONERS

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HAYWOOD COUNTY BOARD OF COMMISSIONERS AGENDA REQUEST

**Must be presented to the County Manager's Office
no later than noon on Friday, 10 days before the meeting**

DATE OF REQUEST: 7/30/2019

FROM: Kris Boyd

MEETING REQUEST DATE: 8/19/2019

*Regular meetings: First (1st) Monday of the month at 9:00 a.m.
Third (3rd) Monday of the month at 5:30 p.m.*

REQUEST: *(What action are you seeking?)*

Approval of contract with McGill Associates for Solid Waste General Services

BACKGROUND AND PLAN: *(Research and justification of request, implementation plan)*

To provide technical guidance and/or operational assistance for ongoing solid waste operations. Assistance includes but is not limited to convenience centers, FFLF (gas collection, methane flare, groundwater testing, etc), and WOLF

FINANCIAL: *(Cost, where is the money coming from, optional or mandated)*

25,000 from budgeted funds

SUPPORTING ATTACHMENT: YES NO

POWERPOINT PRESENTATION: YES NO

PERSON MAKING PRESENTATION: Kris Boyd

TITLE: Development and Facilities Services Director

PHONE NUMBER: 828-452-6650

EMAIL: kris.boyd@haywoodcountync.gov



June 19, 2019

Mr. David Francis, Program Administrator
Haywood County
215 North Main Street
Waynesville, North Carolina 28746

RE: Technical Guidance and/or Operational
Assistance for Ongoing Solid Waste Operations
Haywood County, North Carolina

Dear Mr. Francis:

McGill Associates is pleased to submit our proposal to provide technical guidance and/or operational assistance to Haywood County relative to the ongoing solid waste operations for the 2019/2020 fiscal year. This will include assisting with any issues relative to Francis Farm Landfill, materials recovery facility, White Oak Landfill, or convenience centers. Typical work items that are included within this scope of services is provided below:

SCOPE OF SERVICES

Technical Guidance and/or Operational Assistance for Ongoing Solid Waste Operations

1. Meet with County staff on an as needed basis to discuss ongoing solid waste operations in the County.
2. Assist the County with addressing applicable compliance issues relative to groundwater and gas assessments.
3. Provide engineering support and guidance for troubleshooting the operation of the skid-mounted blower flare system at the Francis Farm Landfill.
4. Periodically review the landfill gas monitoring well data to determine how the gas collection system is affecting the elevated methane levels in the landfill gas monitoring wells at the Francis Farm Landfill.
5. Provide assistance with existing convenience centers to address operational issues or provide conceptual layouts and evaluate cost of potential improvements.
6. Assist the County with evaluation of the ongoing operation contract at the White Oak MSW Landfill, as requested.

PROPOSED FEES

We propose to perform the above services on an hourly basis, for a maximum not to exceed fee of **\$25,000**. Invoices will be submitted monthly based on the actual time spent, as directed by County staff. Invoices will be calculated in accordance with the attached Basic Fee Schedule.

ASSUMPTIONS

We have based our proposal on the following assumptions:

1. This proposal is to cover general consultation, meetings, technical guidance, and assistance to the County with routine operations and compliance. We will develop a separate scope and proposed fee for any specific projects that are identified as necessary, via consultation with the County and the Solid Waste Section, to maintain compliance for the County's existing solid waste facilities.

Mr. Francis, we appreciate the opportunity to present this proposal to Haywood County to continue assistance with operations and compliance for the County's solid waste program. We look forward to working with you and your staff as the need arises. If this proposal is acceptable, please execute the attached Consulting Services Agreement and return a copy for our records. Please give me a call if you have any questions.

Should you have any questions or need additional information, please do not hesitate to give us a call at (828) 252-0575.

Sincerely,

MCGILL ASSOCIATES, P.A.



Scott Burwell, PE
Project Manager

Attachments: Consulting Services Agreement
Basic Fee Schedule

Cc: Ben Cathey, PE, McGill Associates PA

CONSULTING SERVICES AGREEMENT

This contract entered into this 19th day of June, 2019 by and between **Haywood County, NC** hereinafter called the Client, and McGill Associates, P.A.;

Witnesseth that:

Whereas, the Client desires to engage McGill Associates to provide consulting services; and,

Whereas, the Client finds that the attached Scope of Services and terms of this agreement are acceptable; and,

Whereas, McGill Associates desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

Now, therefore, the parties hereto do mutually agree as follows:

1. Scope of Services: McGill Associates shall provide the services attached hereto in the Proposal for Services letter dated June 19, 2019, to this Agreement, hereinafter called services. Additional services will be provided at the Client's request.

2. Standard of Care: McGill Associates will perform its services using that degree of skill and diligence normally employed by professional engineers or consultants performing the same services at the time these services are rendered. McGill Associates will reperform any services not meeting this standard without additional compensation.

3. Authorization to Proceed: Execution of this Consulting Services Agreement will be considered authorization for McGill Associates to proceed unless otherwise provided for in this Agreement.

4. Changes in Scope: The Client may request changes in the Scope of Services provided in this Agreement. If such changes affect McGill Associates cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this Agreement, including Task Orders executed by both parties.

5. Compensation: The Client shall pay the compensation to McGill Associates set forth in the Proposal for Engineering Services letter dated June 19, 2019, attached hereto. Unless otherwise provided in the Basis for Compensation, McGill Associates shall submit invoices to the Client monthly for work accomplished under this agreement and the Client agrees to make payment to McGill Associates within thirty (30) days of receipt of the invoices. Client further agrees to pay interest on all accounts invoiced and not paid or objected to for a valid cause in writing within said thirty (30) days at a rate of 1-1/2 percent per month (18 percent per annum), until paid. Client agrees to pay McGill Associates' cost of collection of the amounts due and unpaid after sixty (60) days, including but not limited to, court costs and attorney's fees. McGill Associates shall not be bound by any provision such as contained in a purchase order or wherein McGill Associates waives any rights to a mechanic's lien or any provision conditioning McGill Associates' right to receive payment for its work upon payment to the Client by any third party. These general conditions are notice, where required, that McGill Associates shall file a lien whenever necessary to collect past due amounts. The Client agrees that failure to make payment in full within thirty (30) days of receipt of the invoice shall constitute a release of McGill Associates from any and all claims of negligence which Client may have. It is also mutually agreed that should the Client fail to make prompt payments as described herein, McGill Associates reserves the right to immediately stop all work under this agreement until disputed amounts are resolved.

6. Personnel: McGill Associates represents that it has, or will secure at their own expense, all personnel required to perform the services under this agreement and that such personnel will be fully qualified and adequately supervised to perform such services. It is mutually understood that should the scope of services require outside subcontracted services, McGill Associates may do so at their discretion.

7. Opinions or Estimates of Cost: Any costs estimates provided by McGill Associates shall be considered opinions of probable costs. These along with project economic evaluations provided by McGill Associates will be on a basis of experience and judgment, but, since McGill Associates has no control over market conditions or bidding procedures, McGill Associates cannot warrant that bids, ultimate construction cost, or project economics will not vary from these opinions.

8. Termination: This Agreement may be terminated for convenience by either the Client or McGill Associates with 15 days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such non performance within 5 days of written notice and diligently complete the correction thereafter. On termination, under the North Carolina Constitution, the client is not permitted to make payment for

services not performed. McGill Associates will be paid for all authorized work performed up to the termination date plus reasonable project closeout costs.

9. Limitation of Liability: McGill Associates liability for Client's damages will, in aggregate, not exceed the total fees paid by the Client for full performance of the Scope of Services referenced herein or \$50,000, whichever is greater. This provision takes precedence over any conflicting provision of this Agreement or any documents incorporated into it or referenced by it. This limitation of liability will apply whether McGill Associates liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include McGill Associates' directors, officers, employees and subcontractors. At additional cost, Client may obtain a higher limit prior to commencement of services.

10. Assignability: This agreement shall not be assigned or otherwise transferred by either McGill Associates or the Client without the prior written consent of the other.

11. Severability: The provisions of this Consulting Services Agreement shall be deemed severable, and the invalidity or enforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this consulting services agreement is deemed unenforceable for any reason whatsoever, such provision shall be appropriately limited, and given effect to the extent that it may be enforceable.

12. Ownership of Documents: All documents, calculations, drawings, maps and other items generated during the performance of services shall be considered intellectual property and remain the property of McGill Associates and the Client. Client agrees that the deliverables are intended for the exclusive use and benefit of, and may be relied upon for this project only by the Client and will not be used otherwise.

13. Excusable Delay: If performance of service is affected by causes beyond McGill Associates control, project schedule and compensation shall be equitably adjusted.

14. Indemnification: Client agrees to indemnify, defend and hold harmless McGill Associates, its agents, employees, officers, directors and subcontractors, to the fullest extent permitted by North Carolina law and subject to all defenses allowable under North Carolina law, from any and all claims, and costs brought against McGill Associates which arise in whole or in part out of the failure by the Client to promptly and completely perform its obligations under this agreement, and as assigned in the Proposal for Engineering Services or from the inaccuracy or incompleteness of information supplied by the Client and reasonably relied upon by McGill Associates in performing its duties or for unauthorized use of the deliverables generated by McGill Associates.

15. Choice of Law: This Agreement shall be construed, governed, and enforced by and in accordance with the laws of the State of North Carolina. Each party expressly consents to the jurisdiction of the Haywood County Superior Court of the State of North Carolina should litigation arise between the parties.

16. Entire Agreement: This Agreement contains all of the agreements, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals, or agreements, whether oral or written, and may only be modified or amended as herein provided; and as mutually agreed.

17. Attachments to this document:

1. Proposal for Engineering Services Letter dated June 19, 2019.
2. Basic Fee Schedule


Haywood County, NC

Authorized Signature



Bryant Morehead
County Manager
215 North Main Street
Waynesville, North Carolina 28746

McGill Associates, P.A.



Scott Burwell, PE
Project Manager
55 Broad Street
Asheville, North Carolina 28801

BASIC FEE SCHEDULE

August 2018

<u>PROFESSIONAL FEES</u>	<u>Current Rate</u>
Firm Principal	\$205.00
Program Services Manager I	\$160.00
Program Services Manager II	\$170.00
Senior Project Manager I	\$170.00
Senior Project Manager II	\$180.00
Senior Project Manager III	\$185.00
Project Manager I	\$150.00
Project Manager II	\$160.00
Project Engineer I	\$110.00
Project Engineer II	\$120.00
Project Engineer III	\$140.00
Engineering Associate I	\$ 90.00
Engineering Associate II	\$ 95.00
Engineering Technician I	\$ 90.00
Engineering Technician II	\$100.00
Engineering Technician III	\$110.00
Environmental Specialist I	\$ 85.00
Environmental Specialist II	\$ 95.00
Electrical Engineer I	\$110.00
Electrical Engineer II	\$120.00
Electrical Engineer III	\$140.00
Electrical Engineering Associate I	\$ 90.00
Electrical Engineering Associate II	\$ 95.00
Electrical Engineering Technician I	\$ 90.00
Electrical Engineering Technician II	\$100.00
Electrical Engineering Technician III	\$110.00
Mechanical Engineer I	\$110.00
Mechanical Engineer II	\$120.00
Mechanical Engineer III	\$140.00
Mechanical Engineering Associate I	\$ 90.00
Mechanical Engineering Associate II	\$ 95.00
Mechanical Engineering Technician I	\$ 90.00
Mechanical Engineering Technician II	\$100.00
Mechanical Engineering Technician III	\$110.00

CADD Operator I	\$ 80.00
CADD Operator II	\$ 85.00
CADD Operator III	\$ 90.00
Construction Services Manager I	\$130.00
Construction Services Manager II	\$145.00
Construction Administrator I	\$ 95.00
Construction Administrator II	\$105.00
Construction Administrator III	\$115.00
Construction Field Representative I	\$ 85.00
Construction Field Representative II	\$ 90.00
Construction Field Representative III	\$ 95.00
Construction Services Coordinator	\$ 80.00
Planner I	\$100.00
Planner II	\$115.00
Planner III	\$135.00
Planner IV	\$145.00
Surveyor I	\$ 80.00
Surveyor II	\$ 90.00
Surveying Associate I	\$ 70.00
Surveying Associate II	\$ 75.00
Survey Technician I	\$ 75.00
Survey Technician II	\$ 82.00
Survey Field Technician I	\$ 60.00
Survey Field Technician II	\$ 65.00
Survey Field Technician III	\$ 70.00
Administrative Assistant (I-II)	\$ 70.00
Administrative Assistant III	\$ 80.00
Accounting Assistant (I-II)	\$ 80.00

1. **EXPENSES**

- a. Mileage - \$0.65/mile
- b. Robotics/GPS Equipment - \$25/hr.
- c. Survey Drone - \$100/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

2. **ASSOCIATED SERVICES -**

- a. Associated services required by the project such as soil analysis, materials testing, etc., shall be at cost plus ten (10) percent.

ADDITIONAL HAYWOOD COUNTY CONTRACT TERMS/CONDITIONS AND SIGNATURE PAGE

NON APPROPRIATION

If funds are not appropriated during the term of this Agreement for this agreement, and there are no other available funds with which payment can be made, this agreement is terminated on the last day of the fiscal period for which appropriations were received without penalty or expense.

IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY N.C.G.S. Chapter 147, Article 6E

As of the date listed below, the vendor or bidder listed below is not listed on the Final Divestment List created by the State Treasurer pursuant to the applicable provisions of Chapter 147, Article 6E of the N.C.G.S. The undersigned certifies that he or she is authorized by the vendor or bidder listed below to make the foregoing statement.

NOTE: N.C.G.S Chapter 147, Article 6E requires this certification for bids or contracts with the various governmental entities of North Carolina, including counties. The certification is required when a bid is submitted, when a contract is entered into, and when a contract is renewed or assigned. No vendor may utilize any subcontractor found on the State Treasurer's Final Divestment List. The List is updated every 180 days, and can be found at www.nctreasurer.com/iran

NORTH CAROLINA E-VERIFY CERTIFICATION

APPLICABILITY: Pursuant to North Carolina General Statute 64-25, the certification is applicable for all contracts entered into by Haywood County, except contracts solely for the purchase of goods, apparatus, supplies, materials, equipment, or contracts with specific other entities as described in N.C.G.S. §143-133.3, piggy-back contracts, and travel purchases.

CERTIFICATION: By signing and entering into this contract with Haywood County, I hereby certify that I comply with E-Verify, the Federal program used to verify the work authorization of newly hired employees. I certify compliance with the E-Verification program pursuant to Article 2 of Chapter 64 of the North Carolina General Statutes. If applicable, I am also certifying that any subcontractor hired or used by me will comply with E-Verify.

ADA AND CIVIL RIGHTS CERTIFICATION OF COMPLIANCE

I hereby certify that I comply with all applicable federal civil rights laws, including the applicable provisions of the Americans with Disabilities Act

UNIFORM GUIDANCE ("UG") REQUIRED CONTRACT PROVISIONS

Uniform Guidance ("UG") is a set of uniform standards for contracts involving the award/expenditure of certain federal monies. If the UG requirements are not applicable, the UG provisions do not apply, unless specifically stated so in the contract.

NOTE: BY SIGNING THE HAYWOOD COUNTY SIGNATURE PAGE, YOU AGREE TO FOLLOW THE ATTACHED TERMS AND CONDITIONS, TO THE EXTENT THAT SUCH PROVISIONS ARE APPLICABLE.

VENDOR

Vendor Name: Mcbill Associates
By: [Signature] Title: Project Manager
Date: 7-19-19

HAYWOOD COUNTY

By: [Signature]
County Manager
Date: 07/31/19

ATTEST:

[Signature]
Clerk to the Board/Deputy Clerk to the Board

APPROVED AS TO FORM:

Frank Queen
County Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget Act.

[Signature]
Finance Director

Uniform Guidance ("UG") Required Contract Provisions
APPLICABILITY: *UG is a set of uniform standards for award and expenditure of federal financial assistance, and applies to the purchase of apparatus, supplies, equipment, materials, services, construction and repair, and engineering/architectural services. See 2 CFR Part 200. Provided that these standards are applicable to you, by signing this signature page, you are certifying that your organization meets these requirements and that this certification, with the statutory references incorporated into each certification, on its face constitutes the "provision for compliance" for any paragraphs requiring such provision or other similar required statement, terms, or requirements. Gaston County is also required to be bound by such provisions. As the UG requires that any more stringent state law or local ordinance/policy supersedes these certifications, such state or local contractual references supersedes the requirements below, to the extent that the state or local provisions are more stringent than the federal requirements. If the service provided under the contract is not covered by the UG, signing the contract signature page will not bind the parties to these requirements, unless if specified in the contract. See generally <https://www.ecfr.gov/cgi-bin/text-idx?SID=04e61f4e0a8317140a9ec150bb2ac195&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200.1521.11>*

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Ex. Order 11375, "Amending Ex. Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of

\$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Ex. Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Ex. Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Ex. Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

§200.322 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]