

## **NORTH CAROLINA**

## **SERVICES AGREEMENT UNDER \$50,000**

### **WAKE COUNTY**

THIS AGREEMENT, is made and entered into this 1<sup>st</sup> day of July, 2017 by and between Wake County, North Carolina (the "County") party of the first part; and Sonoco Recycling, LLC. (the "Provider"), party of the second part;

### WITNESSETH:

For the purpose and subject to the terms and conditions hereinafter set forth, the County hereby contracts for the services of the Provider, and the Provider agrees to provide the services to the County in accordance with the terms of this Agreement.

#### **I.SERVICES TO BE PROVIDED**

The services to be performed by the Provider shall be as follows:

See Attachment A

Provider shall not sub-contract all or any part of the services provided for in this Agreement without written approval of the County.

#### **II.TERM**

The services of the Provider shall begin on July 1, 2017, and shall be provided until June 30, 2022.

III.MAXIMUM AMOUNT PAYABLE: Zero dollars (\$0.00) this is a revenue only contract

#### **IV.PAYMENT**

Provider shall submit an invoice for services provided. The invoice shall contain Provider's name and federal tax identification number and shall be signed and dated by an officer of Provider. It shall detail all services provided in payment requests. The County will make payments to Provider upon receipt of and approval of the invoice by the contracting department.

#### **V. RELATIONSHIP OF PARTIES**

Provider is an independent contractor of the County. Provider represents that it has or will secure, at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this Agreement shall be fully qualified and shall be authorized or permitted under state and local law to perform such services. It is further agreed that the Provider will obey all State and Federal statutes, rules and regulations that are applicable to provisions of the services called herein. Neither Provider nor any employee of the Provider shall be deemed an officer, employee or agent of the County.

#### **VI.CANCELLATION**

This Agreement may be canceled by Provider upon thirty (30) days' written notice to the County, and the County may terminate this agreement upon thirty (30) days' written notice to Provider.

## VII. INSURANCE REQUIREMENTS

The Provider shall obtain, at its sole expense, all insurance required in the following paragraphs and shall not commence work until such insurance is in effect and certification thereof has been received by Wake County's Finance Office. If any required insurance policy expires during the term of this agreement, Provider must provide a certificate of insurance to the Wake County Finance Office as evidence of policy renewal prior to such policy expiration.

Provider signature on this agreement indicates that Provider agrees to the terms of this insurance section and understands that failure to comply may result in cancellation of this agreement at Wake County's option.

Workers' Compensation Insurance, with limits for Coverage A Statutory- for State of North Carolina and Coverage B - Employers Liability \$500,000 each accident/disease each employee/disease policy limit.

Commercial General Liability - with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate, including contractual liability.

Commercial Automobile Liability, with limits no less than \$1,000,000 per occurrence for bodily injury and property damage for any vehicle used during performance of contract services, including coverage for owned, hired, and non-owned vehicles. Evidence of commercial automobile coverage is only necessary if vehicles are used in the provision of services under this Agreement.

Professional Liability Insurance, applicable to any professional services provided under this Contract with limits of no less than \$1,000,000 per claim and \$2,000,000 aggregate.

If any coverage is on a claims-made basis, Provider agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement and to purchase and maintain Supplemental Extended Reporting Period or 'tail coverage' with a minimum reporting period of not less than three (3) years if the policy expires or is cancelled or non-renewed. If coverage is replaced, the new policy must include full prior acts coverage or a retroactive date to cover the effective dates of this Agreement. Provider shall provide a Certificate of Insurance annually to Wake County indicating any claims made coverage and respective retroactive date. The duty to provide extended coverage as set forth herein survives the effective dates of this Agreement.

All insurance companies must be authorized to do business in North Carolina and have an AM Best rating of "A-/VII" or better; or have reasonable equivalent financial strength to the satisfaction of the County's Finance Office. Proof of rating shall be provided to the county upon request.

Insurance with limits no less than those specified above shall be evidenced by a Certificate of Insurance issued by a duly authorized representative of the insurer and dated no more than thirty (30) days prior to the start date of the agreement. In the case of self-insurance, a letter of explanation must be provided to and approved by Wake County Risk Management.

The Provider shall be responsible for providing immediate notice of policy cancellation or non-renewal during the term of this Agreement to the Wake County Finance Office and for three years subsequent for any claims made coverage.

If Provider does not meet the insurance requirements specified above, alternate insurance coverage satisfactory to Wake County may be considered. Any requests for consideration of alternate coverage must be presented by Provider PRIOR TO provision of any services associated with this Agreement.

In the event that Provider uses subcontractors to perform any of the services under this Agreement, then and in that event, Provider shall contractually require such subcontractor(s) to meet all of the requirements of this section.

#### VIII. INDEMNIFICATION

Provider agrees to defend, indemnify, and hold harmless the County, for all loss, liability, claims or expense (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of the Provider, except to the extent same are caused by the negligence or willful misconduct of the County. It is the intent of this section to require Provider to indemnify Wake County to the extent permitted under North Carolina law.

#### IX. NO WAIVER OF SOVEREIGN IMMUNITY

Wake County and the Provider agree that nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense of sovereign or governmental immunity from any cause of action alleged or brought against Wake County for any reason if otherwise available as a matter of law.

#### X. NON-ASSIGNMENT

Provider shall not assign all or any portion of this Agreement, including rights to payments, to any other party without the prior written consent of the County.

#### XI. ENTIRE AGREEMENT

The parties have read this Agreement and agree to be bound by all of its terms, and further agree that it constitutes the complete and exclusive statement of the Agreement between the parties unless and until modified in writing and signed by the parties. Modifications may be evidenced by telefacsimile signatures.

#### XII. NON-APPROPRIATION

Provider recognized that Wake County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are not available and not appropriated to purchase the services specified in this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the thirty (30) day notice requirement set forth in Section VI.

In the event of a legal change in Wake County's statutory authority, mandate, and mandated functions which adversely affects Wake County's authority to continue its obligations under this Agreement, then this Agreement shall automatically expire without penalty to Wake County and without the thirty (30) day notice requirement set forth in Section VI.

#### XIII. GOVERNING LAW

Both parties agree that this Agreement shall be governed by the laws of the State of North Carolina.

#### XIV. E-VERIFY REQUIREMENTS

To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contract(s), by submitting a

bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS 64-26(a)) relating to the E-Verify requirements.

**XV. IRAN DIVESTMENT**

By signing this agreement, Provider certifies that as of the date of execution of this Agreement 1) it does not appear on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-6E and published on the State Treasurer's website at [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and 2) it will not utilize any subcontractor that appears on the Final Divestment List in the performance of duties under this Agreement.

**WAKE COUNTY, NORTH CAROLINA**

By: \_\_\_\_\_  
Wake County Department Head

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

By: \_\_\_\_\_  
Wake County Manager or Designee

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

**PROVIDER**

By: \_\_\_\_\_  
Sonoco Recycling, LLC

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

Sonoco Recycling  
3901 Barringer Drive  
Charlotte, NC 28217  
Mailing Address

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

\_\_\_\_\_  
FINANCE DIRECTOR

The person responsible for monitoring the contract performance requirements is

Meghan Baldwin

\_\_\_\_\_ Department Head Initials

## **Attachment A**

### **Scope of Provider Services**

Wake County desires turn-key services by the provider. Wake County desires revenue for recyclable materials delivered to the service provider. All labor, equipment and supplies necessary to meet the requirements of this contract are the responsibility of the provider.

Provider Shall:

1. Accept baled and un-baled cardboard and rigid plastic recyclable materials currently collected at Wake County facilities.
2. Accept cardboard and rigid plastic recyclable materials in roll-off containers, tractor trailers, open top containers, compactor trucks and enclosed compactor containers.
3. Receive and process all recyclable materials in the 'as-is' condition, with no guarantees to the value or condition of the materials. Some materials may be mixed and require additional separation prior to processing.
4. Accept recyclable materials Monday through Friday between the hours of 7 am and 5 pm
5. Shelter the materials after tipping to prevent damage to its value due to high moisture content or littering of the site or adjacent properties.
6. Use best efforts to recycle all materials accepted to minimize landfilling of materials.
7. Accommodate tipping of material at a rate such that trucks delivering Wake County's recyclables are able to approach the site, enter, weigh in, tip all materials and depart the site with a turn-around time of less than 30 minutes.
8. Have weight data reporting capabilities for the MRF scale as needed to meet the monthly and annual reporting requirements of the County. Truck scales shall be calibrated annually and the provider shall provide calibration certification documents to the County upon request.
9. Conduct bi-annual waste composition studies of the County's material.
10. Agree to keep appropriate written records of its material management at its processing facility so the County may, upon request, review those records to insure that such materials were handled, stored, labeled and shipped properly.
11. Provide data in a format acceptable to Wake County sent on a monthly and yearly basis showing, at a minimum, date, time, ticket number, truck number, material, weight, calculations with supporting data and revenue sharing arrangements.
12. Payments shall be made for any revenue shared to Wake County on a monthly basis.
13. Perform regular facility maintenance and appropriate equipment replacement/rebuild to ensure the facility availability to meet the County's service requirements.
14. Provider is responsible (sole responsibility) for marketing, selling, and transporting all materials to other recycling vendors or manufacturers.
15. Provide sufficient qualified staff, all equipment, and necessary rolling stock to properly and safely receive and process the material collected and delivered by the County.
16. In the event on an unscheduled shutdown of the providers MRF, the provider shall have a suitable alternative for providing uninterrupted receipt of deliverables from the County

facilities. The alternative facility for the provider MRF shall be reviewed and approved by the County prior to execution of the Agreement.

17. Comply with OHSA regulations concerning the storage, transport and disposal of recyclable materials.
18. Comply with local, state and federal regulations concerning the processing, storage and transport of recyclable materials.