BRUNSWICK COUNTY

REQUEST FOR QUALIFICATIONS

Regional Biosolids – Feasibility Study

ISSUE DATE: **June 1, 2026**

DUE DATE: **July 2, 2026**

BRUNSWICKCOUNTYNC.GOV/BID

Request for Qualifications Statements
Regional Biosolids Feasibility Study

Brunswick County (the "County"), in consultation with the Cape Fear Public Utility Authority ("CFPUA") (together the "Parties" and individually a "Party"), are each engaged in the provision of municipal wastewater treatments to their ratepayers. Each Party currently owns, operates, and maintains reclamation facilities in southeastern North Carolina. Due to rising costs associated with significant population growth in the region, environmental impacts, and the potential for regulatory development, the Parties are jointly committed to finding a best practice for biosolid disposal, reducing both environmental and financial impacts on their ratepayers.

To that end, the County, in consultation with CFPUA, is requesting qualifications statements from qualified professional engineering firms for engineering services necessary to produce a feasibility study evaluating a regional approach to biosolids management, which will be used to objectively and rationally analyze whether the development of a jointly- and publicly-owned and publicly-operated regional biosolids facility is favorable, based on known details, estimates, strengths, and weaknesses of the potential future project.

Services will include, but not be limited to, professional engineering services in support of a feasibility study to identify and evaluate alternatives for a long-term regional management of biosolids in Brunswick and surrounding counties.

A more detailed description of the work to be performed is contained in the enclosed Scope of Work. Firms submitting a Statement of Qualifications should use the enclosed Scope of Work as a guide but may develop their own scope based upon their experiences on similar projects. The County will be the owner and contracting party of the contract with the awarded firm and shall have overall management responsibility under the awarded contract. The County will negotiate and refine a final Scope of Work with the selected firm. The firm's final contract shall be based on a lump sum amount, inclusive of permit application fees and other expenses (printing, mileage, per diem, etc.). No additional compensation shall be made for reimbursable items.

Firms interested in being considered for this work should submit their Statement of Qualifications to:

Post Office Delivery	Hand Delivery or Alternate Shipping Service
Brunswick County Public Utilities Attention: Robert Miller, PE 250 Grey Water Road NE Supply, NC 28462 (910) 253-1759	Brunswick County Public Utilities Attention: Robert Miller, PE P. O. Box 249 Bolivia, NC 28422

For consideration, eight (8) hard copies and one (1) electronic copy on a USB drive of the response to this Request for Qualifications must be received by the County by 4:30 PM ET on July 2, 2026. Brunswick County will not be responsible for the failure of any mail or delivery service to deliver responses prior to the stated date and time. Regardless of the manner of submission, any response received after the stated date and time will not be considered.

Incomplete responses or responses inconsistent with the required format may be disqualified from consideration.

Statements of Qualifications shall be limited to twenty-five (25) pages (excluding resumes) with a minimum font size of 11 points.

Sections shall be **divided by tabs** that indicate the title of each section. At a minimum, the qualifications statement should include the following information:

1) The company's full legal name, state of organization or incorporation, primary office location, office location of project personnel, years of experience, and a contact person.

2) Qualifications of the employees who will be assigned to the project. The project manager and other key team members should be clearly identified. If subcontractors are to be used for any portion of the work, they should be identified, and their qualifications included. Brunswick County reserves the right to reject any subcontractors in its sole and absolute discretion.

    a) The qualifications statement shall clearly indicate who will oversee the project as well as the roles that each individual shall perform.

    b) Special emphasis shall be provided on the individuals' backgrounds, qualifications, certifications, and experience on related and or similar projects.

3) Experience on at least three (3) similar projects. The qualifications statement should include a description and contact person for projects that were similar in size and scope as this project.

    a) For each project experience listed, list the role played by each of the current team members.

4) A project schedule including key milestones should be included. The project schedule should start from the Notice to Proceed and include two-week review times for County staff reviews. A project schedule will be included in the contract for this work.

5) A brief description of the project approach to be used by the firm should be included.

    a) In the firm's own words, describe the understanding of the project, the requirements of the project, the challenges associated with the project, the approach to handling any project challenges, and the anticipated outcome of the project.

    b) List all assumptions made in preparing the project approach.

    c) Discuss any additions, deletions, or changes to the Scope of Work which may improve the project. Discuss how these changes will affect the associated resources and schedule.

6) A brief discussion of the firm's ability to properly scope the project should be included. This includes an estimate of man-hours required to complete the various components of the project. Man-hour estimates should be broken down by tasks with separate columns for labor classifications. Each task shall be subtotaled in addition to project totals.

Brunswick County reserves the right to request financial information for any firm in order to support the viability of the firm.

Brunswick County reserves the right to refuse or reject any or all qualifications and to waive any and all formalities, irregularities, or technicalities. Brunswick County reserves the right to select the firm that best meets its needs and negotiate a final Scope of Work that reflects the work to be done and the budget constraints. Based upon the number of qualifications statements received, the County may subsequently request oral presentations as a part of the selection process. All firms submitting a Statement of Qualifications will receive notification once the contract has been awarded.

Selection of a firm will be by committee, which committee shall be made up of an equal number of representatives from the County and CFPUA. The committee shall evaluate Statements of Qualifications on the firm's ability to meet the requirements of this Request for Qualifications. Evaluation criteria will include, without limitation:

1. The firm's experience in providing similar services for similar projects.

2. Qualifications and accessibility of key individuals identified in the qualifications statement that will be assigned to the project.

3. Ability to properly scope the project and the capability of the firm to manage the work.

4. Ability to provide a project approach that best meets the project intent.

5. Ability to meet established schedules.

Qualifications Selection Criteria	**Qualifications Selection Criteria Weighting**
	Max Points
The firm's experience in providing similar services for similar projects	20
Qualifications and accessibility of key individuals identified in the qualifications statement that will be assigned to the project	20
Ability to properly scope the project and the capability of the firm to manage the work	20
Ability to provide a project approach that best meets the project intent	25
Ability to meet established schedules	15
Total Points	**100**

Neither Brunswick County nor CFPUA will be responsible for any costs or expenses incurred by any firm in submitting a Statement of Qualifications. Brunswick County reserves the right to cancel the work described herein prior to the issuance and acceptance of any contractual agreement even if the Board of Commissioners has formally accepted the recommendation.

In addition to the terms and conditions contained in this Request for Qualifications, by submitting a Statement of Qualifications, if selected, the firm agrees to enter into and be bound by the provisions of a Professional Services Agreement in substantially the form attached hereto and incorporated herein by reference. To the extent that any of the terms of this Request for Qualifications and the terms of the Professional Services Agreement conflict, the terms of the Professional Services Agreement shall prevail. No work shall commence until an agreement has been fully executed by the parties.

An optional pre-response meeting is scheduled for Wednesday, June 17, 2026, at 2:00 PM ET. The pre-response meeting will be held at 250 Grey Water Road, Supply, NC 28462.

Any questions or comments shall be submitted in writing to Robert Miller, PE at robert.miller@brunswickcountync.gov by 4:00 PM ET on June 24, 2026. A copy of all questions, further clarifications, and answers will be made in the form of an addendum to this Request for Qualifications and will be provided to all known interested firms. Any addendum will also be posted to the County website. Notwithstanding the forgoing, firms will be responsible for ensuring that they have all addenda.

Interested firms are expressly prohibited from contacting any Brunswick County official or employee regarding this Request for Qualifications, except in the manner noted in this section. A violation of this provision is grounds for the immediate disqualification of the firm.

Certification

The firm submitting a Statement of Qualifications hereby certifies that it has carefully examined this Request for Qualifications and all attachments hereto, including, without limitation, the Professional Services Agreement. The firm submitting the Statement of Qualifications further certifies that it understands and accepts all terms and conditions contained in the Request for Qualifications, including, without limitation, the Professional Services Agreement, and the scope of work, and that it has knowledge and expertise to complete the project. By submitting a Statement of Qualifications, the firm further certifies that its submittal is fair in all respects and without collusion or fraud.

SCOPE OF WORK
Regional Biosolids Feasibility Study

1. BACKGROUND

Brunswick County Public Utilities and Cape Fear Public Utility Authority are seeking to evaluate the feasibility of a regional approach to biosolids management in Brunswick and New Hanover counties (Phase I). If the Phase I Feasibility Study deems that a regional approach is a viable approach to the management of the Parties' biosolids, the Parties will seek an engineering firm to provide a Preliminary Engineering Study (Phase II) to further evaluate the recommended approach for regional biosolids management.

The study may include additional local and/or regional government utilities/agencies. All partnering agencies own and/or operate wastewater treatment ("WWTP") and water treatment ("WTP") facilities. Each Party currently treats and then legally disposes of sewage sludge generated during the treatment of domestic sewage in a treatment works ("biosolids"). Currently, the primary means of dewatered biosolids end-use for each WWTP/WTP is a combination of landfill disposal, composting, and/or land application.

1.1 Overview of Brunswick County Public Utilities

Brunswick County Public Utilities ("BCPU") began operating its first WWTP in the late 1990's to serve the growing community. BCPU now operates six (6) WWTPs with a treatment capacity of 13,355,000 gallons per day ("GPD"). BCPU also operates two (2) WTPs: the Northwest WTP and the Highway 211 WTP with treatment capacities of twenty-four (24) and six (6) million gallons per day, respectively.

1.2 Overview of Cape Fear Public Utility Authority

Cape Fear Public Utility Authority was established in 2008 through the consolidation of the water and wastewater systems of the City of Wilmington and New Hanover County. It is governed by an eleven-member board, with appointments made by the Wilmington City Council and the New Hanover County Board of Commissioners. CFPUA serves more than 200,000 customers and operates two WWTPs—the James A. Loughlin (Northside) Wastewater Treatment Plant ("NSWWTP") which is rated at sixteen (16) million gallons per day and the M'Kean Maffitt (Southside) Wastewater Treatment Plant ("SSWWTP") which is rated at twelve (12) million gallons per day. Both of these plants collectively receive nearly eighteen (18) million gallons per day. CFPUA also operates two (2) WTPs: the Sweeney Water Treatment Plant and the Richardson Water Treatment Plant, which provide approximately 20.5 million gallons per day of clean drinking water.

1.4 Biosolids Management Across the Agencies

Table 1 provides an overview of the biosolids management across each of the Parties with further details provided in the section below.

Table 1 – Current Biosolids Production and End Use

Authority	Facility	Current End Use	Current Biosolids Production (Dry Tons Per Year)
BCPU	West Brunswick WRF	Class A - Land Application (liquid)	689
	West Brunswick WRF	Class B – Landfill (dried cake)	50
	Northeast WWTP	Class A - Land Application (liquid)	352
	Northwest WTP	PACl – Land Application (liquid) / Compost (dried)	1,100
	Hwy 211 WTP	Lime Sludge – Beneficial Reuse (dried)	7
CFPUA	NSWWTP	Biological Sludge – Landfill (dried cake)	2,674
	SSWWTP	Biological Sludge – Landfill (dried cake)	1,061
	Sweeney WTP	Alum Sludge – Landfill (dried cake)	1,462

1.3.1 BCPU Biosolids Management Overview

BCPU currently produces an average of 1,000 dry tons of biosolids per year through Autothermal Thermophilic Aerobic Digestion ("ATAD") at the West Brunswick Water Reclamation Facility ("WRF") and the Northeast WWTP. At this time, nearly all the biosolids produced are transported and land applied in liquid form in Brunswick County, North Carolina. Occasionally, during emergency conditions, a small portion of Class B biosolids are dried and transported for landfill disposal in Sampson County, North Carolina. BCPU is currently performing a design-build project at the West Brunswick WRF that will upgrade the current biosolids infrastructure and install two (2) belt filter presses with an expected completion date of December 2027. Upon completion and at current flow rates, BCPU will produce approximately 3,285 dry tons of Class A cake per year at the West Brunswick WRF facility.

BCPU produces an average of 1,100 dry tons of polyaluminumchloride ("PACl") per year at the Northwest WTP. Approximately 90% of the PACl sludge is liquid land applied on local farms in Brunswick County, North Carolina. The remaining sludge is taken to McGill Composting. If conditions do not allow for land application, the sludge is taken to the landfill in Sampson County, North Carolina. BCPU produces an average of seven (7) dry tons of lime sludge at the Highway 211 WTP. The lime solids are being reused as a beneficial fill, based on solid waste determination, and are being used by a Brunswick County resident.

1.3.2 CFPUA Biosolids Management Overview

CFPUA currently produces an average of 5,197 dry tons of biosolids per year through its facilities. The NSWWTP generates an average of 2,674 dry tons of biological sludge. The SSWWTP generates an average of 1,061 dry tons of biological sludge. The Sweeney WTP generates an average of 1,462 dry tons of alum sludge. All of the biosolids produced are landfilled at the GFL Environmental Landfill in Sampson County, North Carolina.

2. STUDY AND REPORT PHASE

2.1 Additional Participants

At the time of this RFQ, the Parties participating in the feasibility study are limited to the County and CFPUA, as described above. The selected firm will identify other potential agencies (municipal and/or public agency wastewater treatment facilities) within a 50-mile radius of Wilmington, NC who could be a potential participant in a regional biosolids management solution.

The selected firm shall identify and facilitate discussion with additional agencies that may have in interest in joining the regional effort. Consideration shall be given for how the Parties may be reimbursed for the efforts of this feasibility study should an agency join after this study is completed. The selected firm shall include these decisions in a technical memorandum such that future participating agencies may begin the process for joining the regional approach.

2.2 Agency Specific Needs and Challenges

The selected firm shall document each Party's biosolids-specific goals and policies based on information provided by each Party and/or future participating agency. The selected firm will utilize existing Master Plans or Strategic Plans, when available, to identify potential challenges or needs. If such plans are not available, the selected firm will interview the Parties and/or future participating agencies to obtain this information. The selected firm shall identify and combine, at a high level, the biosolids management challenges and needs for each Party and/or further participating agencies, such as:

- Current biosolids management costs, including landfill tipping costs, transportation costs, and hauling distances
- Limitations from land application
- Potential future limitations to biosolids beneficial use/disposal strategies
- Biosolids treatment capacity limitations and future expansion requirements
- Regulatory-driven solids process improvement needs

2.3 Case Studies of Regional Biosolids Facilities

The selected firm shall review case studies of other regional biosolids facilities that treat similar quantities and characteristics and present the findings in a technical memorandum that provides a high-level overview of each study facility. This memo should include descriptions of the benefits and concerns associated with each facility including technology used, constructability, sustainability, and operability of similar systems. This memo should also include an evaluation of the technologies utilized at each facility and the associated benefits and concerns.

2.4 Identify Solids Production Processes, Quantities, and Characteristics
Currently, the primary means of dewatered biosolids end-use for each WWTP/WTP is a combination of landfill disposal and/or land application. The Parties shall provide the selected firm with current solids production rates and characteristics. Operating data from each facility shall be provided in electronic form, including but not limited to, influent average daily flow rates (million gallons per day), wet tons of biosolids produced annually, and percentage of total solids.

2.4.1 Evaluate Solids Quantity

a) The Parties and/or future participating agencies shall provide the selected firm with current solids production rates and characteristics. Operating data from each plant shall be provided in electronic form (e.g., Excel spreadsheet) for the following criteria:
   - Influent Average Daily Flow Rate (million gallons/day)
   - Dewatered cake production information (e.g., dewatered cake total solids, wet cake mass, dry solids mass, etc.)
     - Wet Tons per Year
     - Percent Total Solids
     - Percent Volatile Solids

b) The Parties and/or future participating agencies shall provide the selected firm with future solids production estimates for a 30-year planning period (e.g., 2030 to 2060). For this purpose, an annual growth percentage or projected annual quantitative increase shall be provided by the respective Party and/or future participating agency. This feasibility study will use these unvalidated values provided. Future biosolids production rates can be further evaluated and confirmed/validated during Phase II, including an evaluation of projected influent flows and loads and their corresponding solids production rates.

c) The Parties and/or future participating agencies shall provide the selected firm a summary of their existing residuals dewatering infrastructure at each treatment facility, including dewatered cake performance. The selected firm will summarize the unvalidated values provided.

d) Each Party and/or future participating agency will provide an expected level of usage of the proposed regional facility or facilities as either a percentage of their overall production or as a total weight in dry pounds.

2.4.2 Solids Quality

a) The selected firm will assess available solids quality data and how each facility meets Class B or Class A pathogen removal and vector attraction reduction requirements. The description shall include the following parameters, assuming the information is available and provided by the Agencies:
   - Nutrient concentrations
   - Pollutant (i.e., metal) concentrations (per 40 CFR Part 423)

- Pathogen reduction via process or measurement
- Vector attraction reduction via process or land application management

b) The selected firm will evaluate and discuss industry trends in the region for contaminants of emerging concern (PFAS, microplastics, pharmaceuticals, personal care products, flame retardants, pesticides/agricultural products, endocrine disrupting chemicals, etc.) and their potential impact on a regional facility or facilities. The selected firm shall also discuss potential mitigation strategies for the various contaminants as they pertain to a regional facility(ies).

2.5 Document Goals and Objectives

The selected firm shall document each Party's and/or future participant agency's biosolids-specific goals and policies based on communication and information provided by the respective parties.

2.6 Determine Specific Challenges and Needs

The selected firm shall identify at a high level, for further evaluation in Phase II, the solids treatment and biosolids management challenges and needs of each facility, such as:

- Current biosolids management costs, including tipping costs, transportation rates, and hauling distances;
- Potential future limitations to biosolids disposal/beneficial use strategies;
- Solids treatment capacity limitations and associated expansion needs;
- Regulatory- or condition-driven solids processing improvement needs;
- Biosolids management portfolio diversification needs; and
- Site-constraints limiting solids treatment expansion.

The selected firm will use existing Master Plans or Strategic Plans, when available, to identify challenges and needs. If such plans are not available, the selected firm will interview the Parties and/or future participating agencies to obtain this information. The selected firm will interview the respective parties providing a Master Plan or Strategic Plan to determine if any changes have developed since the document(s) was/were finalized. A detailed capacity and solids processing improvements assessment and an evaluation of the projected costs will be included in Phase II.

2.7 Identification of site requirements

The selected firm shall work collaboratively with the respective partnering agencies to evaluate the requirements of a future site that is suitably sized for current and full-scale buildout needs, suitable to minimize hauling burden for all respective partnering agencies. At a minimum the selected firm will consider the impacts of the following:

- Acreage required for the recommended technology and full build out of the facility
- Land use of neighboring parcels to minimize impacts from noise, traffic, and odor
- Establish compatible land uses and zoning
- Redundant and flood-resistant means of egress to the transportation grid
- Buildable, dry, and flat available land with low environmental concerns
- Access to utilities including medium voltage electrical, gas lines, water, and sewer
- Neighboring land use – agricultural/institutional/commercial compared to residential

2.8 Current and Future Market and Regulatory Analysis
A sub-optimal level of resiliency exists for many publicly-owned WWTPs with regard to the disposal or end use of biosolids. In many cases, this is the direct result of the frequency and severity of recent disruptions, challenges, and pressures in the legislative, regulatory, market, and labor sectors for dewatered biosolids end uses. Other agencies possess greater levels of resiliency but seek to reduce the overall costs of biosolids hauling or seek to further diversify their biosolids management portfolio to expand yet further on their levels of resiliency. Regardless of position, the Agencies wish to consider alternative options for the disposal of biosolids in the future that include use of a publicly-owned and publicly-operated facility(ies). All evaluations shall place a greater priority on the improvement of resiliency over cost.

The selected firm shall provide a long-term, high-level potential market analysis for biosolids products specific to the regional process facility's(ies') biosolids quantity and type (Class A cake, pellet, or compost; Class B cake, Sub Class B, and ash). The selected firm's analysis shall include the review and consideration/incorporation (where appropriate) of data and information from recent studies and plans prepared by various agencies. The results of the market analysis are an integral component to confirm the technologies that will create a final product with a stable and sustainable market with consideration for multiple beneficial use channels. This task will begin at the onset of the project.

a) The selected firm shall score end-use markets in accordance with the following criteria:
   - Realistic, proven market: The market for a given biosolids product is well established and understood within the region.
   - Market size: The market has capacity to absorb biosolids volumes on the scale of the Agencies' production.
   - Source product availability: The market has capacity to provide necessary products for the treatment of biosolids without negatively impacting others in the market space.
   - Proven value: The cost associated with managing a given biosolids product in an end-use market.
   - Future market capacity: The market is predicted to be stable or expanding over the life of the project.
   - Resiliency to changes in the labor or supply chain sectors: The market is expected to withstand challenges from the labor and supply chain sectors.
   - Resiliency to regulatory change: The market is expected to provide flexibility for beneficial reuse over the life of the project, based on current regulatory trends in the region.
   - Year-round dependability: The market provides a reliable, year-round outlet for the Agencies' biosolids.

b) <u>Unique alternatives of significance</u> – The selected firm shall identify at a high-level for later evaluation in Phase II any unique alternatives discovered onsite and offsite facility options for manufacturing marketable products while optimizing the use of the respective agencies' facilities necessary in treating wastewater and other essential requirements. This effort shall be limited to a listing of alternatives discovered during the course of the work.

c) Diversification – The selected firm shall evaluate the potential for a flexible implementation plan for positioning the respective agencies to be able to participate in multiple markets while also considering public perception.

d) Market Analysis– The selected firm will provide a high-level, general market analysis for beneficial use of the end-use products leveraging the selected firm's recent experience. Identification of specific opportunities, unless already known, is not required. The selected firm will:
- Identify local opportunities that exist for beneficial use in agriculture, blending, distribution, and other specialty markets.
- Identify approaches to eliminate or minimize hurdles to market issues.
- Identify continual and/or opportunistic reclamation opportunities, including: mines, superfund sites, brownfields, fire damaged land, Salton Sea, etc.
- Define and list promising markets suitable for all products being considered.
- Estimate outside-the-gate expenses and revenues for the end-use products.

2.9 Current and Future Biosolids Management Regulations
In the past several years, agencies have experienced restrictions, disruptions, challenges, and pressures to biosolids end uses in the legislative and regulatory sectors. Amongst these elements are landfill and land application restrictions.

The selected firm shall provide a long-term analysis of the legislative and regulatory sectors as they relate to biosolids management. The selected firm shall identify and evaluate the current and future biosolids management challenges, drivers, opportunities, and trends from areas with relevance to North Carolina considering the following factors:
- Financial
- Environmental (Air, Land, and Water)
- Social (Nuisance issues and Public Perception)
- Regulatory, Legislation, and Legal (Federal, State, and Local)

a) The selected firm shall explore potential regulatory/legal constraints, barriers, and/or hurdles to regional management and approaches to eliminate or minimize hurdles. Identify regulatory and legislative opportunities for a regional solution.

b) The selected firm shall analyze and provide a discussion of biosolids permitting programs in the region and permitting considerations, including but not limited to hauling, processing, storing, and land-applying biosolids. The selected firm shall consider impacts to existing permits for Class A and Class B products.

c) The selected firm shall provide a high-level regulatory and legislative analysis for beneficial use of the end-use products leveraging the selected firm's recent experience. The selected firm will:
- Identify existing legislative and regulatory constraints, barriers, and/or hurdles

- Estimate the potential for future legislative and regulatory constraints, barriers, and/or hurdles
- Categorize the existing and potential items based on their risk to any regional facility(ies)
- Identify approaches to eliminate or minimize the constraints, barriers, and/or hurdles for a regional facility(ies)

2.10 Other Regional Efforts

In close cooperation with the respective agencies, the selected firm shall identify and provide background on other regional biosolids efforts (successful, unsuccessful, and those still considering) and lessons learned. Research shall be limited to up to three (3) other publicly-owned or publicly-operated regional biosolids facilities that may be identified. Lessons learned shall be coordinated with the applicable agency.

2.11 Preliminary Alternatives and Options Development

Selection of any eventual technology(ies) and property(ies) would, if the project proceeds, occur in Phase II. The intent of this Task is to identify, screen, and develop potential technologies and locations that will serve as the preliminary items upon which to evaluate further in future phases.

2.12 List of Technology Options

The selected firm will determine potential available technologies and/or management strategies appropriate to produce marketable biosolids products, such as, but not limited to thermal drying, biosolids composting, and/or other biosolids thermal conversion options. Land application of Class B Biosolids shall also be considered, where allowable. More innovative technologies such as gasification, pyrolysis, hydrothermal liquefaction, etc. shall also be identified with basic information, including, without limitation: state of development (i.e., proof of concept, deployment, etc.); anticipated greenhouse gases emissions, etc. The selected firm shall provide the major benefits and drawbacks of the listed technologies and/or management strategies. Selection of technology(ies) shall be reserved for Phase II.

2.13 Greenhouse Gas ("GHG") Emission Consideration

In Phase I of the project, the selected firm shall identify at high level, the GHG emissions to be expected from the various proposed technologies. Carbon sequestration and avoidance of fossil fuel-intense inorganic fertilizer shall be evaluated for land application options. The Parties' and/or any future participating agency's goal is to maximize climate benefits from biosolids management. In Phase I, the selected firm shall utilize tools or knowledge in the industry to estimate/quantify GHG emissions from each technology and processing method and from various products generated from technologies. The selected firm will prepare high-level estimates of direct emissions based on emission factors and the assumed biosolids production rates. The high-level estimates should be a best-available estimate of the anticipated carbon footprint for each of the three (3) proposed technologies in the "short list" defined below.

Among the elements that must be considered in a Phase II of the project (not in this Study) will be a detailed estimate of GHG emissions (CO_2, CH_4, and N_2O) resulting from the proposed biosolids management strategies. GHG emissions will need to be assessed in that future effort based upon biosolids conversion through final end use. The selected firm shall include in the preliminary or conceptual plans for Phase II a detailed evaluation of carbon footprint, once technologies and sites are considered more fully.

2.14 North Carolina Permitting Considerations

North Carolina Department of Environmental Quality ("NCDEQ") processes are very complex and are very site-specific. For these reasons, the actual NCDEQ applications/processes must wait until later phases. The selected firm shall provide general explanations of the various steps, along with a range of possible NCDEQ and/or federal permitting requirements and timelines such that the Parties and any future participating agencies can gain a sense of the potential level of difficulty and involvement in permitting a regional biosolids facility(ies).

2.15 Establish Evaluation Criteria

Identify and evaluate, qualitatively, the elements of importance to the collective Parties and any future participating agencies for biosolids management at a regional facility(ies). Emphasis shall be placed on those criteria that assist the Parties and any future participating agencies in deciding whether to proceed to Phase II. These criteria will be used to rank the technology and site options. These criteria include, but are not limited to:

- Site Evaluation Criteria
  - Area availability
  - Minimized hauling burden and associated carbon footprint (i.e., from the agency facilities to the regional facility(ies))
  - Utility availability (power, water, etc.)
  - Management of sidestream loads
  - Social justice concerns and/or potential effects on neighbors (to be evaluated by the community engagement expert)
- Technology and Associated Biosolids Product Evaluation Criteria
- Compatibility with each Parties' and/or any future participating agencies' biosolids management goals and policies, including increases in resiliency to problems arising from:
  - Legislative/regulatory pressure
  - Labor market pressure (ability to find and retain employees)
  - Equipment and supply chain pressure
- High-level capital costs (based on costs developed for other facilities, scaled up to the needed capacity)
- High-level O&M and end-use costs (based on O&M costs developed for other facilities, scaled up to the needed capacity, and end-use costs estimated in the market analysis above)
  - Technology footprint needs
  - Technology state of development (i.e., number of installations processing biosolids and years of proven operations)
  - Adaptability of biosolids product to potential future regulations (i.e., PFAS, etc.)
  - Compatibility of biosolids product with current biosolids market and adaptability to potential future biosolids market changes
  - Carbon footprint associated with the technology and biosolids hauling and end-use
  - Minimized hauling burden (i.e., minimized biosolids product volumes, minimized hauling distance from the regional facility(ies) to the end-use site)

- Community impacts, such as odors, noise, local air emissions, and truck traffic (to be evaluated in coordination with the community engagement expert)

2.16 Preliminary Technology and Site Screening
The selected firm shall use the evaluation criteria established above to grade/rank the identified technologies and screen them down to no fewer than three (3) alternatives for technology. At a minimum, consideration of the following technologies shall be made (or identified why these cannot be considered):

- Biosolids composting
- Incineration

2.17 Preliminary Biosolids Management Alternatives and Options Development
The selected firm shall develop preliminary design concepts for a regional biosolids facility(ies) that could be developed and implemented.

From the three (3) technologies selected from the screening above, the selected firm shall work with the Parties and any future participating agencies to narrow the technologies using a detailed preliminary screening process to select two (2) highest-ranked options, hereinafter referred to as the "Short List." The "Short List" shall be preliminary concepts for a facility(ies) that, based upon all known information to date, would provide the best overall balance of increased resiliency and value for the Parties and any future participating agencies.

A high-level capital cost estimate will be developed for each of the two (2) Short List alternatives. Consistent with American Association of Cost Estimators ("AACE") guidelines for a Class 5 estimate development will be based on a 0% to 2% level of development for the basis of the estimate and accuracy will range from a low end of -20% to -50% (average – 35%) and from a high end of +30% to +100% (average +65%). The alternatives will be compared on a 20-year net present worth ("NPW") cost basis, including 20-year O&M costs. Given the uncertainty in the biosolids product end-use management cost/revenue assumptions, amongst other variables, a sensitivity analysis shall be performed to look at a range of possible end-use costs/revenues and other variables that may have a significant impact on the estimated costs.

It is assumed that all or most participating agencies will deliver dewatered cake solids from their respective treatment plants to a centralized regional facility(ies) in a suitable form for receiving at a wet cake receiving station. The selected firm shall identify at a high level whether on-site improvements would need to be made at any individual WWTPs to accommodate this requirement. Those on-site improvements shall be identified as prerequisite requirements for any applicable agencies.

2.18 Grant and Loan Funding Opportunities
The selected firm shall determine available local, state, and/or federal grants and/or funding opportunities to finance the regional facility(ies). To the extent applicable, the selected firm shall ensure compliance with all grant regulatory requirements, including the grant award terms and conditions. The selected firm will thoroughly review all essential documents and ensure that all funding obligations associated with any grant are fulfilled throughout the project. The selected firm shall provide all required reports and documentation and ensure compliance as required by any grant.

2.19 Business Case
The selected firm shall generate a business case evaluation that considers and compiles all of the information gathered during the feasibility study. The business case shall evaluate the required capital cost investment (Class 5 estimate), life-cycle cost analysis, and alternative end use markets. The business case should also provide a recommended cost sharing approach based on the planned and future contributions from all partnering agencies.

The selected firm shall consider potential storage options.

The selected firm shall provide a risk analysis and identification of externalities that might become obstacles to success for a jointly owned and/or operated regional biosolids facility.

2.20 Final Phase/Feasibility Study
Upon completion of the preceding Tasks, the selected firm will finalize the Regional Biosolids Program Feasibility Study Phase I incorporating its preliminary or conceptual plans for the Phase II Regional Biosolids Facility Program.

An executive summary detailing the findings, conclusions, and recommendations for subsequent actions will be prepared. A draft of the executive summary will be submitted to the Parties and any applicable participating agencies for review and comment prior to inclusion in the final Regional Biosolids Program Feasibility Study Phase I.

The executive summary will be combined into the draft report and submitted to the Parties and any applicable participating agencies for review. Following the review meeting, comments will be incorporated and the selected firm will submit the Final Regional Biosolids Program Feasibility Study Phase I to the Parties and any applicable participating agencies.

The final study shall, at a minimum, include the following factors:

- Summary of the current state and outlook of biosolids management for each Party and participating agency.
- Review current and potential market and regulatory requirements, project drivers, roadblocks and other considerations
- Meaningful public engagement and strategic communications
- High level GHG emissions considerations
- Explanation of future NCDEQ documentation and public review process considerations
- Governance and financial engineering considerations
- Identify potential resource recovery aspects
- Preliminary alternatives & options development and feasibility analysis
- Grant and loan funding opportunities
- Preliminary or Conceptual Plans for Phase II

2.21 Stakeholder Discussion and Decisions Workshop
The selected firm will conduct a final review workshop of the findings, conclusions, and recommendations for the feasibility study. The selected firm shall prepare a Microsoft

PowerPoint presentation with printable handouts summarizing the results of the feasibility study. The target audience shall be governing body members of the Parties and any participating agency. The target speakers shall be staff from the Parties and any participating agency. The targeted delivery time shall be fifteen (15) minutes. The intent will be for staff to present the effort's results and seek guidance on potential participation in Phase II of the project. The product shall include full-color graphic elements suitable for a professional presentation. The selected firm will not be required to be present, in person or remotely, for these meetings.

This task concludes the Phase I Feasibility Assessment.

NORTH CAROLINA

BRUNSWICK COUNTY

PROFESSIONAL SERVICES AGREEMENT FOR ARCHITECTURAL, ENGINEERING AND/OR SURVEYING SERVICES (Mini-Brooks Act/Qualification Based Selection)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into by and between Brunswick County, a body politic and corporate of the State of North Carolina, (hereinafter referred to as the "County" or "Owner"), party of the first part and {Vendor Name}, (hereinafter referred to as the "Provider"), party of the second part.

WITNESSETH:

1. SERVICES; FEES

The Provider agrees to perform the services (hereinafter referred to as the "Services") in connection with the project (hereinafter referred to as the "Project") at the agreed upon fees, all as more fully set forth on Exhibit "A" attached hereto.

Any exhibits or attachments referenced herein are hereby incorporated by reference and made a part of this Agreement. Any conflict between the language in an exhibit or attachment and the main body of this Agreement shall be resolved in favor of the main body of this Agreement.

2. TERM OF AGREEMENT; TIME OF COMPLETION

(1) *Term*. The term of this Agreement begins one (1) business day after approval by the Brunswick County Board of Commissioners (the "Effective Date") and continues in effect until {Expiration Date}, unless extended or sooner terminated as provided for herein or in the General Conditions of the Contract.

(2) *Time of Completion*. Notwithstanding the foregoing, the Provider shall complete the Services in accordance with the schedule set forth herein (the "Time of Completion"), unless extended as provided for in the General Conditions of the Contract. **No work may commence under this Agreement until the Agreement has been fully executed by both parties.**

3. TERMINATION

The County may terminate this Agreement at any time without cause by giving sixty (60) days' written notice to the Provider. As soon as practicable after receipt of a written notice of termination without cause, the Provider shall submit a statement to the County showing in detail the work performed under this Agreement through the effective date of termination. The County may terminate this Agreement for cause by giving written notice of a breach of the Agreement. The Provider shall have fifteen (15) days to cure the breach following receipt of the notification. Failure to cure the breach within the fifteen (15) days shall result in the immediate termination of the Agreement. Notwithstanding the foregoing, the County may terminate this Agreement immediately and without notice to the Provider if the Provider becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against the Provider, or has a receiver or trustee appointed for substantially all of its property, or if the Provider allows any final judgment to stand against it unsatisfied for a period of forty-eight (48) hours.

4. BRUNSWICK COUNTY GENERAL CONDITIONS OF THE CONTRACT

This Agreement, in addition to any construction documents prepared hereunder, shall be subject to the Brunswick County, North Carolina General Conditions of the Contract (for construction contracts), unless the County directs otherwise. In the event of a conflict between the General Conditions of the Contract and this Agreement, this Agreement shall prevail.

5. NONAPPROPRIATION

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will promptly notify the Provider of the non-appropriation and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

6. COMPENSATION

The County agrees to pay fees as specified in Exhibit “A” or as set out above for the Services satisfactorily performed in accordance with this Agreement. Unless otherwise specified, the Provider shall submit monthly invoices to the County and include detail of all Services delivered or performed under the terms of this Agreement. The County shall pay all undisputed and properly completed invoices within forty-five (45) days of receipt. Notwithstanding the foregoing, the County will not pay late fees on any charges under this Agreement. If the County disputes any portion of the charges on any invoice received from the Provider, the County shall inform the Provider in writing of the disputed charges. Once the dispute has been resolved, the Provider shall re-invoice the County for the previously disputed charges, and, per any resolution between the County and the Provider, the County shall pay those charges in full at that time. No advance payment shall be made for the Services to be performed by the Provider under this Agreement.

7. INDEPENDENT CONTRACTOR

Both the County and the Provider agree that the Provider shall act as an independent contractor and shall not represent itself as an agent or employee of the County for any purpose in the performance of its duties under this Agreement. The Provider represents that it has or will secure, at its own expense, all personnel required in performing the Services under this Agreement. Accordingly, the Provider shall be responsible for payment of all federal, state, and local taxes arising out of its activities in accordance with this Agreement, including, without limitation, federal and state income tax, social security tax, unemployment insurance taxes and any other taxes or business license fees as required. The Provider shall not be entitled to participate in any plans, arrangements, or distributions by the County pertaining to or in connection with any pension, stock, bonus, profit sharing or other benefit extended to County employees.

In the event the Internal Revenue Service should determine that the Provider is, according to Internal Revenue Service guidelines, an employee subject to withholding and social security contributions, then the Provider hereby acknowledges that all payments hereunder are gross payments, and the Provider is responsible for all income taxes and social security payments thereon.

8. OPINIONS OF COST

If applicable, the Provider shall provide opinions of probable construction costs, including but not limited to, designer fees, costs of construction, costs of equipment, furnishings, signage, permit fees and appropriate contingencies, at Project intervals determined by the County. Such opinions of costs shall be representative of the Provider's best judgment as an experienced and qualified professional generally familiar with the construction industry. The parties acknowledge that actual bids, proposals, and costs may vary from the Provider's opinions of costs based on the cost of labor, materials, equipment, or services furnished by others, differing methods for determining prices, competitive bidding, or other market conditions. When requested by the County, the Provider shall participate in rebidding, renegotiation, and design adjustments to the extent such are necessary to reduce Project costs. Such services shall be performed by the Provider without additional compensation.

9. ACCOUNTING RECORDS

The Provider shall maintain accounting records in accordance with generally accepted accounting practices and shall make such records available for inspection by the County upon reasonable request and during normal business hours for a period of three (3) years following completion of the Services.

10. PERMITS AND APPROVALS

The Provider shall provide the County with a schedule of all required approvals and the dates by which application for such approvals must be made in order to avoid any risk of delay to the Project. The Provider shall prepare the necessary application forms, present documents requiring approval by the County and submit documents with the County approval to appropriate federal, state, and local government or other agencies in a timely manner.

11. ENVIRONMENTAL CONDITIONS

The County shall disclose to the Provider the existence of all known and suspected hazardous substances, including, without limitation: asbestos; polychlorinated biphenyls (PCBs); petroleum; hazardous waste; or radioactive material located at or near the site where the Services are to be performed. If the Provider discovers any undisclosed hazardous substances, or if investigative or remedial action or other professional services are necessary, the Provider may, at its option and without liability for damages, suspend performance of the Services hereunder until the County: (1) retains an appropriate specialist consultant or contractor to identify and, as appropriate, abate, remediate or remove the hazardous substances; and (2) warrants that the site where the Services are to be performed are in full compliance with applicable laws and regulations. Notwithstanding the foregoing, if the presence of any hazardous materials adversely affects the performance of the Provider's duties under this Agreement, then the Provider shall have the option of: (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause upon thirty (30) days' written notice to the County.

12. PROVIDER REPRESENTATIONS

(1) The Provider is a duly organized entity or corporation qualified to do business and in good standing under the laws of the State of North Carolina;

(2) The Provider has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

(3) No approval, authorization, or consent of any governmental or regulatory authority is required to be obtained or made by it in order for the Provider to enter into and perform its obligations under this Agreement;

(4) In connection with the Provider's obligations under this Agreement, it shall comply with all applicable federal, state, and local laws and regulations and shall obtain all applicable permits and licenses;

(5) The Provider shall not violate any agreement with any third party by entering into or performing the Services under this Agreement;

(6) The Provider has not engaged in corrupt, fraudulent, or coercive practices in competing for or executing this Agreement;

(7) The Provider will perform all Services in conformity with the specifications and requirements of this Agreement;

(8) The Services provided by the Provider under this Agreement will not violate, infringe, or misappropriate any patent, copyright, trademark, or trade secret rights of any third party, or any other third-party rights (including, without limitation, non-compete agreements);

(9) The Provider shall exercise reasonable care and diligence when performing the Services hereunder and will ensure that it adheres to the highest generally accepted standards in the industry when performing said Services;

(10) The Provider shall be responsible for all errors, omissions, or deficiencies in technical accuracy in any drawings, specifications or other documents prepared or services rendered by the Provider, its subcontractors or consultants and shall correct, at no additional cost to the County, any and all errors, omissions, discrepancies, ambiguities, mistakes, deficiencies or conflicts;

(11) The Provider acknowledges that if any specific licenses, certifications, or related credentials are required in its performance of the Services, it will ensure that such credentials remain current and active and not in a state of suspension or revocation; and

(12) The Provider shall ensure that whenever its employees or agents are on the County property, they will strictly abide by all instructions and directions issued by the County with respect to rules, regulations, policies, and security procedures applicable to work on the County's premises. Such rules, regulations, policies, and security procedures shall include, but not be limited to: (i) not possessing any controlled substances; (ii) smoking only in designated smoking areas, if any; and (iii) not possessing weapons, except for weapons possessed by law enforcement officials.

13. DAMAGE TO EQUIPMENT, FACILITIES, PROPERTY OR DATA

The Provider shall be solely responsible for any damage to or loss of the County's equipment, facilities, property, and/or data arising out of the negligent or willful act or omission of the Provider or its subcontractors or consultants. In the event that the Provider causes damage to the County's equipment or facilities, the Provider shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to such damage.

14. NON-ENDORSEMENT AND PUBLICITY

The County is not endorsing the Provider or its Services, and the Provider is not permitted to reference this Agreement or the County in any manner without the prior written consent of the County. Notwithstanding the foregoing, the parties agree that the Provider may list the County as a reference in response to requests for proposals and may identify the County as a customer in presentations to potential customers.

15. NON-EXCLUSIVITY

The Provider acknowledges that the County is not obligated to contract solely with the Provider for the Services covered under this Agreement.

16. DIVESTMENT FROM COMPANIES THAT BOYCOTT ISRAEL

The Provider hereby certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. § 147-86.80 *et seq*.

17. DEBARMENT

The Provider hereby certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Agreement by any governmental department or agency. The Provider must notify the County within thirty (30) days if debarred by any governmental entity during this Agreement.

18. INDEMNIFICATION

The Provider shall indemnify and hold harmless the County, its officers, officials, agents and employees from and against all actions, liability, claims, suits, damages, costs or expenses of any kind (collectively, "Claims") which may be brought or made against the County or which the County must pay and incur arising out of this Agreement should fault or negligence on the part of the Provider or its subcontractors or consultants be the proximate cause of such Claims. The Provider shall be fully responsible to the County for the acts and omissions of its subcontractors or consultants and of persons either directly or indirectly employed by it. This Section shall survive any expiration or termination of this Agreement.

19. INSURANCE

The Provider shall procure and maintain in full force and effect at all times and at its sole cost and expense, and shall ensure that any of its consultants maintains in full force and effect at all times and at its sole cost and expense, Commercial General Liability, Commercial Automobile Liability, Professional Liability and Workers' Compensation insurance, if applicable, and any additional insurance as may be required by the County with limits acceptable to the County. All insurance policies (with the exception of Workers' Compensation, if applicable, and Professional Liability) shall be endorsed, specifically or generally, to include the County as an additional insured and as a certificate holder. The Provider shall furnish a Certificate of Insurance from a licensed insurance agent in North Carolina with a rating of A-VII or better by A.M. Best verifying the existence of any insurance coverage required by the County. The Certificate will provide for thirty (30) days' advance notice in the event of termination or cancellation of coverage. The Provider shall have no right of recovery or subrogation against the County (including its officers, agents, and employees), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the aforementioned insurance.

20. WORKERS' COMPENSATION

To the extent required by law, the Provider shall comply with the North Carolina Workers' 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 Provider is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, the Provider shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents while fulfilling the Provider's obligations under this Agreement**.**

The Provider agrees to furnish the County proof of compliance with said Act or adequate medical/ accident insurance coverage upon request.

21. REMEDIES

(1) *Right to Cover*. If the Provider fails to meet any completion date or resolution time set forth, due to no fault of the County, the County may take any of the following actions

with or without terminating this Agreement, and in addition to, and without limiting, any other remedies it may have:

i. Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Provider is again able to resume performance under this Agreement; and

ii. Deduct any and all expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Provider and, should the County's cost of obtaining or performing the Services exceed the amount due the Provider, collect the amount due from the Provider.

(2) *Right to Withhold Payment*. The County reserves the right to withhold any portion, or all, of a scheduled payment if the Provider fails to perform under this Agreement until such breach has been fully cured.

(3) *Setoff*. Each party shall be entitled to set off and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred or reasonably anticipated as a result of the other party's breach of this Agreement.

(4) *Other Remedies*. Upon breach of this Agreement, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently in addition to any other available remedy.

(5) *No Suspension*. In the event that the County disputes in good faith an allegation of breach by the Provider, notwithstanding anything to the contrary in this Agreement, the Provider agrees that it will not terminate this Agreement or suspend or limit any Services or warranties, unless: (i) the parties agree in writing; or (ii) an order of a court of competent jurisdiction determines otherwise; provided, however, this dispute period shall be limited to ninety (90) days.

22. TAXES

The Provider shall be responsible for paying all taxes, fees, assessments, and premiums of any kind payable on its employees and operations. The Provider shall substantiate, on demand by the County, that all taxes and other charges are being properly paid.

23. HEALTH AND SAFETY

The Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with performing the Services. The Provider shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to all employees in connection with performing the Services and other persons who may be affected thereby.

24. COMPLIANCE WITH E-VERIFY PROGRAM

Pursuant to N.C.G.S. § 143-133.3, the Provider understands that it is a requirement of this Agreement that the Provider and its subcontractors or consultants must comply with the provisions of Article 2 of Chapter 64 of the North Carolina General Statutes. In doing so, the Provider agrees that, unless it is exempt by law, it shall verify the work authorization of its employees utilizing the federal E-Verify program and standards as promulgated and operated by the United States Department of Homeland Security, and the Provider shall require its subcontractors and consultants to do the same. Upon request, the Provider agrees to provide the County with an affidavit of compliance or exemption.

25. CONFIDENTIAL INFORMATION

For purposes of this Agreement, the party disclosing Confidential Information is the "Discloser," and the party receiving Confidential Information is the "Recipient." "Confidential Information" shall mean any nonpublic information concerning the parties' respective businesses including, but not limited to, all tangible, intangible, visual, electronic, present or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs and know-how; (d) business information, including operations, planning, marketing interests and products; and (e) the terms of any agreement between the parties and the discussions, negotiations and proposals related thereto. Confidential Information disclosed to the other party must be clearly identified. Written Confidential Information must be clearly marked in a conspicuous place with an appropriate legend identifying the information as "Confidential." Confidential Information that is not written must be identified as confidential at the time of disclosure and confirmed in writing delivered to Recipient within fifteen (15) days of disclosure.

The restrictions regarding the use and disclosure of Confidential Information do not apply to information that is:

a. in the public domain through no fault of the Recipient;

b. within the legitimate possession of the Recipient, with no confidentiality obligations to a third party;

c. lawfully received from a third party having rights in the information without restriction, and without notice of any restriction against its further disclosure;

d. independently developed by the Recipient without breaching this Agreement or by parties who have not had, either directly or indirectly, access to or knowledge of the Confidential Information;

e. disclosed with the prior written consent of the Discloser; or

f. required to be disclosed by law, regulation or court or governmental order, specifically including requests pursuant to the Public Records Laws of North Carolina contained in Chapter 132 of the North Carolina General Statutes. In the event Recipient receives such a request, it shall notify Discloser and Discloser shall have the opportunity to defend against production of such records at Discloser's sole expense.

26. OWNERSHIP OF WORK PRODUCT

(1) All work product created by the Provider pursuant to this Agreement, including, without limitation, design drawings, construction documents, photographs and models and any derivative works and compilations, and whether or not such work product is considered a "work made for hire" or an employment to invent (hereinafter referred to collectively as "Work Product") shall be the exclusive property of the County. The County and the Provider agree that such original works of authorship are "works made for hire" of which the County is the author within the meaning of the United States Copyright Act. To the extent that the County is not the owner of the intellectual property rights in and to such Work Product, the Provider hereby irrevocably assigns to the County any and all of its rights, title and interest in and to all original Work Product created pursuant to this Agreement, whether arising from copyright, patent, trademark, trade secret or any other state or federal intellectual property law or doctrine. Upon the County's request, the Provider shall execute such further documents and instruments or obtain such documents from third parties, including consultants and subcontractors, if applicable, necessary to fully vest such rights in the County. The Provider forever waives any and all rights relating to original Work Product created pursuant to this Agreement, including without limitation, any and all rights arising under 17 U.S.C. § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) In the event the use of any of the Provider's intellectual property, including any derivative work created with the use of third-party intellectual property, is necessary for the use of any Work Product, the Provider hereby grants to the County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the intellectual property for the purposes set forth in this Agreement and will ensure that any third-party grants the same.

(3) The County may use Work Product for any other purpose and on any other project without additional compensation to the Provider. Notwithstanding the foregoing, the use of Work Product by the County for any purpose other than as set forth in this Agreement shall be at the County's risk.

27. NO ASSIGNMENT WITHOUT CONSENT

Neither party shall assign this Agreement (or assign any right or delegate any obligation contained herein whether such assignment is of service, of payment or otherwise) without the prior written consent of the other party hereto. Any such assignment without the prior written consent of the other party hereto shall be void. An assignee shall acquire no rights, and the County shall not recognize any assignment in violation of this provision.

28. GOVERNING LAW AND VENUE

This Agreement shall be governed by applicable federal law and by the laws of the State of North Carolina without regard for its choice of law provisions. All actions relating in any way to this Agreement shall be brought in the General Court of Justice of the State of North Carolina in Brunswick County or in the Federal District Court for the Eastern District of North Carolina, Wilmington division.

29. DISPUTE RESOLUTION

Should a dispute arise as to the terms of this Agreement, both parties agree that neither may initiate binding arbitration. The parties may agree to non-binding mediation of any dispute prior to the bringing of any suit or action.

30. GOVERNMENTAL IMMUNITY

The County, to the extent applicable, does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

31. NON-WAIVER

Failure by the County at any time to require the performance by the Provider of any of the provisions of this Agreement shall in no way affect the County's right hereunder to enforce the same, or shall any waiver by the County of any breach be held to be a waiver of any succeeding breach or a waiver of this Section.

32. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals, written or oral. Notwithstanding the foregoing, all documents included in the Request for Qualifications and the qualifications statement submitted by the Provider, if applicable, including, but not necessarily limited to: General Conditions; Supplementary General Conditions; Scope of Work; Specifications; Addenda; Accepted Proposal; Notice to Proceed; Performance Bond; Payment Bond; MBE forms; Power of Attorney; Insurance Certificates; Approval by County Commissioners; Tax Statement and Certification; Notice of Substantial Completion; Notice of Final Completion and Acceptance; and Drawings are incorporated herein by reference and made an integral part of this Agreement. To the extent the terms of such documents conflict with the terms of this Agreement, the terms of this Agreement shall prevail.

33. HEADINGS

The headings in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

34. SEVERABILITY

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated. If a provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

35. AMENDMENTS

No amendments or changes to this Agreement, or additional Proposals or Statements of Work, shall be valid unless in writing and signed by authorized agents of both the Provider and the County.

36. NOTICES

(1) *Delivery of Notices*. Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by facsimile to the intended recipient at the address set forth below.

(2) *Effective Date of Notices*. Any notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by facsimile or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier.

(3) *Notice Address*. Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment or waiver of any provision of this Agreement shall be sent to:

i. For the County: Brunswick County Manager
P.O. Box 249
Bolivia, NC 28422
Fax: 910-253-2022

ii. For the Provider: {Vendor Name}
{Vendor Address}
{Vendor City}, {Vendor State or Territory} {Vendor Zip}

37. SIGNATURES

This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-58.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

ATTEST: **BRUNSWICK COUNTY**

_________________________________ By: _______________________________

Clerk to the Board / Chairman, Board of Commissioners
Deputy Clerk to the Board

Date: _______________________________

[SEAL]

{VENDOR NAME}

By: ___________________________________

Printed Name: __________________________

Title: __________________________________

Date: __________________________________

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

_____________________________________ Date: _____________

Aaron C. Smith, Finance Director
Brunswick County, North Carolina

APPROVED AS TO FORM

_____________________________________ Date: _____________

Bryan W. Batton, County Attorney /
Ryan S. King, Assistant County Attorney

EXHIBIT "A"
PROPOSAL/STATEMENT OF WORK