

BRUNSWICK COUNTY
INVITATION TO BID

**Installation of two new Gravity
Sewer Services**

ISSUE DATE: **January 13, 2025**

DUE DATE: **February 12, 2025**



[BRUNSWICKCOUNTYNC.GOV/BID](https://www.brunswickcountync.gov/bid)

1. OVERVIEW

Brunswick County is soliciting informal bids for the installation of two long side gravity sewer services at 251 and 255 Cougar Road in Boiling Spring Lakes, NC 28461.



2. SCOPE OF WORK AND SPECIFICATIONS

- 2.1 Tap and install two- four (4) inch SCH 40 PVC gravity sewer services inclusive of cleanout, piping, fittings, and appurtenances from the main to the property line.
- 2.2 Establish traffic control during the performance of the work, ensuring measures are in place for safety and all compliance requirements.
- 2.3 Contractor shall endeavor to minimize any disturbance to roadway and any disturbance shall be restored as required to meet NCDOT requirements.
- 2.4 Contractor shall seed and mulch site to NCDOT standard specifications and shall establish sufficient vegetation to stabilize the disturbed areas.
- 2.5 The work includes the cost of all mobilization, overhead, insurance, clean up, and all ancillaries necessary for a complete service.
- 2.6 No debris will be left at the site.
- 2.7 All materials, restoration, and debris disposal costs must be included in the submitted bid.
- 2.8 All necessary permits for the work are the responsibility of the contractor.
The selected contractor shall attend a meeting at a mutually agreeable time, but within two weeks of notification, with the owner to determine setup, staging area, storage, and appropriate work hours prior to commencing services under the awarded contract.
Contractor to submit a forecasted timeline of work and anticipated completion date.
- 2.9 Contractor shall adhere to all Brunswick County Technical Specification and

Standard Details. These are located on our website at <https://www.brunswickcountync.gov/245/Engineering-Design-Manual>. This includes but is not limited to the following:

- TS 002 Existing Underground Utility lines
 - TS 009 Erosion and Sediment Control
 - TS 012 Trench Boxes, Sheeting and Shoring
 - TS 013 Excavating, Grading, Trenching, and Backfilling
 - TS 017 Asphalt Paving
 - TS 020 Gravity Sanitary Sewer System
 - [Brunswick County Water Details - Sheet 1 \(Rev 1.08 on 09/11/2023\)](#)
 - [Brunswick County Water Details - Sheet 2 \(Rev 1.09 on 09/01/2022\)](#)
 - [Brunswick County Water Details - Sheet 3 \(Rev 1.02 on 03/10/2017\)](#)
 - [Brunswick County Water Details - Sheet 4 \(Rev 1.01 on 12/08/2016\)](#)
 - [Brunswick County Water Details - Sheet 5 \(Rev 1.04 on 07/26/2022\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 1 \(Rev 1.03 on 04/29/2016\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 2 \(Rev 1.03 on 03/14/2019\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 3 \(Rev 1.02 on 01/23/2019\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 4 \(Rev 1.03 on 07/31/2018\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 5 \(Rev 1.03 on 01/23/2019\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 6 \(Rev 1.01 on 01/16/2014\)](#)
 - [Brunswick County General Water & Sewer Details - Sheet 7 \(Rev 1.05 on 02/12/2021\)](#)
- 2.10 Contractor shall provide traffic control including, but not limited to, all signs, cones, barricades, and other related or required traffic control devices to meet the NCDOT standards of the Manual on Uniform Traffic Control Devices (MUTCD) (<https://mutcd.fhwa.dot.gov/>). The work includes all labor, traffic control devices, vehicles, trailers, etc. that may be required to transport, install, and remove the devices after the project is completed.

3. LICENSING

All contractors are hereby notified that they must have proper licenses as required under the state laws governing their respective trades. General Contractors are notified that Chapter 87 of the General Statutes of North Carolina, as applicable, will be observed in receiving and awarding general contracts. Contractor will be required to provide proof of licensure. In addition to the foregoing, electrical contractors and subcontractors must hold appropriate North Carolina electrical

licenses and certifications.

4. SITE VISIT

A site visit is highly recommended prior to submitting a bid for the work. In order to schedule a site visit, contact MARIO BARRON at 910.253.2627 or email mario.barron@brunswickcountync.gov.

5. SCHEDULE

The work shall be completed no later than July 6,2025. There may be limitations on when the work may be performed based on operational needs of the facility.

6. BID DEADLINE AND SUBMITTAL REQUIREMENTS

- 6.1 **Bids must be received no later than February 12, 2025 at 4:30 pm ET. Brunswick County will not be responsible for the failure of any mail or delivery service to deliver a bid prior to the stated date and time. Incomplete Bids or bids inconsistent with the required format shall be disqualified from consideration.**

Those interested should submit one (1) hard copy or one (1) electronic copy of the bid. Bids may be mailed, hand delivered, or emailed to the following:

Mail: Mario Barron
PO BOX 249
Bolivia, NC 28422

Hand Delivery: Mario Barron
250 Grey Water Road
Supply, NC 28462

Email: mario.barron@brunswickcountync.gov

7. EXPENSES

Brunswick County will not be responsible for any costs or expenses incurred by the contractor in submitting a bid or for any other activities associated with this procurement. Further, Brunswick County reserves the right to cancel the procurement described herein prior to issuance and acceptance of any contractual agreement even if the Board of Commissioners has formally accepted the recommendation.

8. RIGHT TO SUBMITTED BIDS AND SUPPORTING DOCUMENTS

All written correspondence, bids, and supporting documents received by Brunswick County in connection with this Invitation to Bid will become the property of Brunswick

County. Brunswick County reserves the right to use any ideas in a bid or supporting documents regardless of whether the bid is selected.

9. FORM OF AGREEMENT

In addition to the terms and conditions contained in this Invitation to Bid, by submitting a bid, contractor, if selected, agrees to enter into and be bound by the provisions of a Construction or Repair Agreement in substantially the form attached hereto and incorporated herein by reference. To the extent that any of the terms of this Invitation to Bid and the terms of the Services Agreement conflict, the terms of the Services Agreement shall prevail. No agreement will be valid until it has been fully executed by the parties. **Contractor may not perform any services until the Construction or Repair Agreement is fully executed by both parties.**

10. INSURANCE

To the extent applicable, contractor must procure and maintain in full force and effect during the term of any agreement with Brunswick County, or the renewal of any agreement with Brunswick County, the insurance coverage set forth in the Minimum Insurance Requirements attached hereto and incorporated herein by reference.

11. BID CONDITIONS

Submission of a bid indicates explicit acceptance by the contractor of the terms and conditions contained in this Invitation to Bid and any attachments hereto. Brunswick County reserves the right to reject, without prejudice or explanation, any or all bids. Brunswick County reserves the right to waive informalities or to amend the specifications of this Invitation to Bid and request new bids at any time prior to the award of a contract. All decisions of Brunswick County shall be final and binding.

12. AWARD

Brunswick County reserves the right to award a contract, based on initial bids received from contractors, without discussion and without conducting further negotiations. Award shall be made to the lowest responsive, responsible bidder unless otherwise specified. Brunswick County may also, in its sole discretion, initiate further discussions with contractors that it deems to fall within a competitive range. Brunswick County shall not be deemed to have finally selected a contractor until a contract has been successfully negotiated and signed by both parties.

13. NON-DISCLOSURE OF INFORMATION

Contractor and its agents shall treat all data and information associated with this Invitation to Bid, including, without limitation, the Invitation to Bid, all reports, recommendations, specifications and other data as confidential. Contractor and its agents shall not disclose or communicate any information to a third party or use such

information in advertising, propaganda and/or in another job or jobs, unless prior written consent is obtained from Brunswick County.

14. NORTH CAROLINA PUBLIC RECORDS

All bids received by Brunswick County shall be considered public information subject to lawful disclosure under North Carolina Public Records Law. Any proposal material deemed by the contractor to constitute either proprietary or trade secret material shall be designated as such, and each page or section of a page containing such material shall be so marked by the contractor. In addition, it shall be the sole responsibility of the contractor to demonstrate to a court of competent jurisdiction that their designation is proper. Brunswick County shall not make public any material determined by a court of competent jurisdiction to be proprietary or trade secret. Contractor hereby agrees to indemnify and hold Brunswick County harmless from any and all claims, suits, damages, penalties or expenses arising out of contractor's proprietary or trade secret designation.

15. CERTIFICATION

Contractor hereby certifies that it has carefully examined this Invitation to Bid and all attachments hereto, that it understands and accepts all terms and conditions and the scope of work, and that it has knowledge and expertise to complete the project. By submitting a proposal, contractor certifies that its proposal is in all respects fair and without collusion or fraud.

THIS CONSTRUCTION OR REPAIR AGREEMENT (hereinafter referred to as the “Agreement” or “Contract”) 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 “County” or “Owner”), party of the first part, and {Vendor Name}, (hereinafter referred to as “Contractor”), party of the second part.

WITNESSETH:

1. PROJECT; FEES

The work to be performed under this Agreement (hereinafter referred to collectively as the “Project”) and the agreed upon fees and costs for said Project are set forth in Exhibit “A” or in any bidding documents, exhibits, and/or attachments referenced herein which are hereby incorporated by reference and made an integral part of this Agreement. Any conflict between or among the language in any bidding documents, an exhibit or attachment, and/or the main body of this Agreement shall be resolved in favor of the main body of this Agreement.

2. TERM OF AGREEMENT; TERMINATION

- (a) *Term.* The term of this Agreement begins one day after execution of the contract by both parties, unless sooner terminated as provided for herein. Notwithstanding the foregoing, the duration of the Project is expected to be **{Project Duration Number of Days - Alpha} ({Project Duration Number of Days - Numeric})** consecutive calendar days from the execution of the contract by both parties, unless extended by mutual written agreement of the parties. **No work may commence under this Agreement until the Agreement has been fully executed by both parties and County issues a Notice to Proceed.**
- (b) *Termination.* County may terminate this Agreement at any time without cause by giving fourteen (14) days’ written notice to Contractor. As soon as practicable after receipt of a written notice of termination without cause, Contractor shall submit a statement to County showing in detail the work performed under this Agreement through the effective date of termination. Notwithstanding the foregoing, County may terminate this Agreement immediately and without notice to Contractor if Contractor 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 Contractor, or has a receiver or trustee appointed for substantially all of its property, or if Contractor allows any final judgment to stand against it unsatisfied for a period of forty-eight (48) hours. **No work may commence under this Agreement until the Agreement has been fully executed by both parties.**

3. NONAPPROPRIATION

If the Board of County Commissioners does not appropriate the funding needed by County to make payments under this Agreement for a given fiscal year, 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, County will promptly notify Contractor 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 County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

4. COMPENSATION

County agrees to pay the amount set forth on Exhibit "A" for the Project satisfactorily completed in accordance with this Agreement. Unless otherwise specified, Contractor shall submit monthly invoices to County and include detail of all work delivered or performed under the terms of this Agreement. County shall pay all undisputed and properly completed invoices within thirty (30) days of receipt. Notwithstanding the foregoing, County will not pay late fees on any charges under this Agreement. If County disputes any portion of the charges on any invoice received from Contractor, County shall inform Contractor in writing of the disputed charges. Once the dispute has been resolved, Contractor shall re-invoice County for the previously disputed charges, and, per any resolution between County and Contractor, County shall pay those charges in full at that time. No advance payment shall be made for the work to be performed by Contractor under this Agreement.

5. CONSTRUCTION SCHEDULE

Within ten (10) days of contract award, Contractor shall furnish County a construction schedule setting forth planned progress of the Project broken down by the various phases of the Project and by calendar days. The scheduled completion duration of the project shall not extend beyond the term of the agreement provided herein.

6. PERFORMANCE AND PAYMENT BONDS

If required by applicable statute, Contractor shall furnish performance and payment bonds covering 100% of the contract amount for the faithful performance of the Agreement and payment of all obligations arising under or related in any way to the Project. Contractor shall immediately furnish a copy of such bonds to County upon request. Bonds must be issued by surety companies authorized to conduct business in North Carolina.

7. LICENSING

Contractor shall have proper licenses, as required by applicable statute, governing their respective trades. General Contractors acknowledge and agree that, if applicable, Chapter 87 of the North Carolina General Statutes will be observed for the Project. Contractor is required to

provide proof of applicable licensure prior to commencing any work on the Project.

8. INDEPENDENT CONTRACTOR

Both County and Contractor agree that Contractor shall act as an independent contractor and shall not represent itself as an agent or employee of County for any purpose in the performance of its duties under this Agreement. Contractor represents that it has or will secure, at its own expense, all personnel required in performing the work under this Agreement. Accordingly, Contractor 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. Contractor shall not be entitled to participate in any plans, arrangements or distributions by 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 Contractor is, according to Internal Revenue Service guidelines, an employee subject to withholding and social security contributions, then Contractor hereby acknowledges that all payments hereunder are gross payments, and Contractor is responsible for all income taxes and social security payments thereon.

9. CONTRACTOR REPRESENTATIONS

- (1) Contractor 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) Contractor 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 Contractor to enter into and perform its obligations under this Agreement;
- (4) Contractor shall not violate any agreement with any third party by entering into or performing the work under this Agreement;
- (5) Contractor will perform all work in conformity with the specifications and requirements of this Agreement;
- (6) Unless otherwise agreed by the parties, Contractor agrees that all materials will be new and of good quality;
- (7) The work provided by Contractor 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);

- (8) Contractor will perform the work in a professional and workmanlike manner exercising reasonable care and diligence and will ensure that it adheres to the highest generally accepted standards in the industry when performing said work;
- (9) Contractor acknowledges that if any specific licenses, certifications or related credentials are required in its performance of the work, it will ensure that such credentials remain current and active and not in a state of suspension or revocation; and
- (10) Contractor shall ensure that whenever its employees or agents are on County property, they will strictly abide by all instructions and directions issued by County with respect to rules, regulations, policies and security procedures applicable to work on 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.

10. DAMAGE TO EQUIPMENT, FACILITIES, PROPERTY OR DATA

Contractor shall be solely responsible for any damage to or loss of County's equipment, facilities, property and/or data arising out of the negligent or willful act or omission of Contractor or its subcontractors. In the event that Contractor causes damage to County's equipment or facilities, Contractor 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.

11. NON-ENDORSEMENT AND PUBLICITY

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

12. NON-EXCLUSIVITY

Contractor acknowledges that County is not obligated to contract solely with Contractor for the work covered under this Agreement.

13. DIVESTMENT FROM COMPANIES THAT BOYCOTT ISRAEL

Contractor 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. § 147-86.81.

14. DEBARMENT

Contractor 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. Contractor must notify County

within thirty (30) days if debarred by any governmental entity during this Agreement.

15. INDEMNIFICATION

Contractor shall defend, indemnify and hold harmless County, its officers, officials, agents and employees from and against all actions, liability, claims, suits, damages, costs or expenses of any kind which may be brought or made against County or which County must pay and incur arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due in part or in the entirety of Contractor, its employees or agents. Contractor further agrees to investigate, handle, respond to, defend and dispose of same at its sole cost and expense. Contractor shall be fully responsible to County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it. This Section shall survive any expiration or termination of this Agreement.

16. MINORITY BUSINESS ENTERPRISES

Contractor will make a good faith effort to utilize Minority Business Enterprises (MBEs) per N.C. Gen. Stat. 143-128 as subcontractors in the performance of this Agreement.

17. INSURANCE

Contractor 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 subcontractors procures and 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 County with limits acceptable to County. All insurance policies (with the exception of Workers' Compensation, if applicable, and Professional Liability) shall be endorsed, specifically or generally, to include County as an additional insured and as a certificate holder. Contractor 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 County. The Certificate will provide for thirty (30) days' advance notice in the event of termination or cancellation of coverage. Contractor shall have no right of recovery or subrogation against 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.

18. WORKERS' COMPENSATION

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

this Agreement. Contractor agrees to furnish County proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

19. REMEDIES

- a. *Right to Cover.* If Contractor fails to commence work on the Project within the time specified, fails to meet any completion date or resolution time specified, fails to perform the work with sufficient workmen, equipment and materials, discontinues the prosecution of the work, performs the work unsuitably, or if Contractor is otherwise in default under this Agreement, 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. Require the surety, if a payment bond has been required, to promptly take over and complete the Project in the manner and within the timeframe specified.
 - ii. If the surety fails to promptly take over and complete the Project in the manner specified and within fifteen (15) days of being notified by County to do so, or if a performance bond was not required for the project, County may employ such means as it may deem advisable and appropriate to perform itself or obtain the work from a third party until the matter is resolved and Contractor is again able to resume performance under this Agreement.
 - iii. Deduct any and all expenses incurred by County in obtaining or performing the work from any money then due or to become due Contractor and, should County's cost of obtaining or performing the work exceed the amount due Contractor, collect the amount due from Contractor and surety.
- b. *Right to Withhold Payment.* County reserves the right to withhold any portion, or all, of a scheduled payment if Contractor fails to perform under this Agreement until such breach has been fully cured.
- c. *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.
- d. *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.
- e. *No Suspension.* In the event that County disputes in good faith an allegation of breach by Contractor, notwithstanding anything to the contrary in this Agreement, Contractor agrees that it will not terminate this Agreement or suspend or limit any work 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 sixty (60) days.

20. TAXES

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

21. HEALTH AND SAFETY

Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with performing the work. Contractor 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 work and other persons who may be affected thereby.

22. NON-DISCRIMINATION IN EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, ethnicity, gender, gender identity, sexual orientation, age, religion, national origin, disability, color, ancestry, citizenship, genetic information, political affiliation or military/veteran status, or any other status protected by federal, state or local law or other unlawful form of discrimination. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment. In the event Contractor is determined by the final order of an appropriate agency or court of competent jurisdiction to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Agreement may be cancelled, terminated or suspended in whole or in part by County, and Contractor may be declared ineligible for further County agreements.

23. COMPLIANCE WITH E-VERIFY PROGRAM

Pursuant to N.C.G.S. § 143-133.3, Contractor understands that it is a requirement of this Agreement that Contractor and its subcontractors must comply with the provisions of Article 2 of Chapter 64 of the North Carolina General Statutes. In doing so, Contractor 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 Contractor shall require its subcontractors to do the same. Upon request, Contractor agrees to provide County with an affidavit of compliance or exemption.

24. 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.

25. OWNERSHIP OF WORK PRODUCT

Should Contractor’s performance under this Agreement generate documents or other work product that are specific to the Project hereunder, such documents or work product shall become the property of County and may be used by County on other projects without additional compensation to Contractor.

26. 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 County shall not recognize any assignment in violation of this provision.

27. 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.

28. 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.

29. GOVERNMENTAL IMMUNITY

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.

30. NON-WAIVER

Failure by County at any time to require the performance by Contractor of any of the provisions of this Agreement shall in no way affect County's right hereunder to enforce the same, nor shall any waiver by County of any breach be held to be a waiver of any succeeding breach or a waiver of this Section.

31. 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, related specifically to the Project herein.

32. 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.

33. 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.

34. AMENDMENTS

Amendments or changes to this Agreement shall not be valid unless in writing and signed by authorized agents of both Contractor and County.

35. NOTICES

- a. *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.
- b. *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.
- c. *Notice Address.*
 - a. 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:

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

For the Contractor: {Vendor Name}
{Vendor Address}
{Vendor City}, {Vendor State or Territory} {Vendor Zip}

36. 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 § 66-358.1 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

Clerk to the Board /
Deputy Clerk to the Board

By: _____
Chairman, Board of Commissioners

[SEAL]

{VENDOR NAME}

By: _____

Printed Name: {Vendor Signatory Name}

Title: {Vendor Signatory Title}

Date: _____

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

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

APPROVED AS TO FORM

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

**EXHIBIT “A”
SCOPE OF PROJECT/FEES AND COSTS**

Contractor Shall provide a firm, fixed price for all work described in the Invitation to Bid.



BRUNSWICK COUNTY MINIMUM INSURANCE COVERAGE REQUIREMENTS

At contractor's expense, contractor shall procure and maintain the following recommended lines of insurance according to the scope of work. The County may choose to elect higher or lower coverages according to the work performed. Contractors must be insured by a licensed agent in North Carolina and rated A-VII or better by A.M. Best.

A. COMMERCIAL GENERAL LIABILITY

Covering all operations involved in this Agreement.

- \$2,000,000 General Aggregate
- \$2,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Each Occurrence
- \$1,000,000 Personal and Advertising Injury Limit
- \$ 5,000 Medical Expense Limit

B. WORKERS' COMPENSATION

Statutory limits covering all employees, including Employer's Liability with limits of:

- \$500,000 Each Accident
- \$500,000 Disease - Each Employee
- \$500,000 Disease - Policy Limit

C. COMMERCIAL AUTOMOBILE LIABILITY

\$1,000,000 Combined Single Limit – Any Auto

D. PROFESSIONAL LIABILITY

\$1,000,000 Per Occurrence

E. POLLUTION LIABILITY INSURANCE

\$1,000,000 Per Occurrence

When a contractor is required to bind pollution/environmental coverage, the contractor must provide evidence of continuation or renewal of liability insurance for a period of three (3) years following termination of the agreement.

ADDITIONAL INSURANCE AND INDEMNIFICATION REQUIREMENTS

- A. Contractor agrees to defend, indemnify, and hold harmless Brunswick County, its officers, employees, and agents from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due in part or in the entirety of Contractor, its employees or agents. Contractor further agrees to investigate, handle, respond to, defend and dispose of same at its sole expense and agrees to bear all other costs and expenses related thereto.

The Contractor's General Liability policy shall be endorsed, specifically or generally, to include the following as Additional Insured:

BRUNSWICK COUNTY, ITS OFFICERS, AGENTS AND EMPLOYEES ARE INCLUDED AS ADDITIONAL INSURED UNDER CONTRACTOR'S GENERAL LIABILITY INSURANCE.

- A. Before commencement of any work or event, Contractor shall provide a Certificate of Insurance in satisfactory form as evidence of the insurances required above.
- B. Contractor shall have no right of recovery or subrogation against Brunswick 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 above-described insurance.
- C. Brunswick County shall have no liability with respect to Contractor's personal property whether insured or not insured. Any deductible or self-insured retention is the sole responsibility of Contractor.
- D. All certificates of insurance must provide that the policy or policies shall not be changed or cancelled without at least thirty (30) days prior written notice.
- E. The Certificate of Insurance should note in the Description of Operations the following:
 - Department: _____
 - Contract #: _____
- F. Insurance procured by Contractor shall not reduce nor limit Contractor's contractual obligation to indemnify, hold harmless and defend Brunswick County for claims made or suits brought which result from or are in connection with the performance of this Agreement.
- G. In the event Contractor receives Notice of Cancellation of Insurance required pursuant to this Agreement, Contractor shall immediately cease performance of all services and shall provide Notice to Brunswick County's Legal/Risk Management personnel within twenty-four (24) hours.
- H. Certificate Holder shall be listed as follows;
 - ATTENTION: Brunswick County Risk Manager
 - 30 Government Center Dr. NE
 - P.O. Box 249
 - Bolivia, NC 28422
- I. If Contractor is authorized to assign or subcontract any of its rights or duties hereunder and in fact does so, Contractor shall ensure that the assignee or subcontractor satisfies all requirements of this Agreement, including, but not limited to, maintenance of the required insurances coverage and provision of certificate(s) of insurance and additional insured endorsement(s), in proper form prior to commencement of services.

BID FORM

Name of Company _____

Address _____

Phone No. _____ **Email:** _____

Federal I.D. No. _____

Contract Signatory Name: _____

Contract Signatory Title: _____

Contract Signatory Email Address: _____

Contract Signatory Phone No: _____

Firm, Fixed Price for all work and conditions noted in the Invitation to Bid

\$ _____