

**Bid Documents
for
RESIDUALS HAULING SERVICES**

Contract No. 20-S0227

Prepared by



235 Government Center Drive
Wilmington, NC 28403

Table of Contents

<u>Title</u>	<u>Page</u>
Notice of Request for Proposals.....	A1
Information for Bidders.....	I1-I2
Proposal Format Information.....	F1-F2
Proposal Forms.....	P1-P4
Bidder Questionnaire/Qualifications.....	Q1-Q5
Draft Services Agreement.....	C1-C18

**CAPE FEAR PUBLIC UTILITY AUTHORITY
RESIDUALS HAULING SERVICES
NOTICE OF REQUEST FOR PROPOSALS**

NOTICE IS HEREBY GIVEN that the Cape Fear Public Utility Authority (hereinafter referred to as "CFPUA" or "the Authority") is requesting proposals for residuals hauling services. CFPUA will receive such proposals in the office of and addressed to:

Cape Fear Public Utility Authority
Finance Department
235 Government Center Drive
Wilmington, NC 28403
Attention: Julia Faircloth, Procurement Manager

THE PROPOSAL WILL BE RECEIVED UP TO THE HOUR OF 2:00 P.M., Wednesday,
October 2, 2019

Copies of the Residuals Hauling Services Procurement Document are available from the CFPUA website on the open bids page <http://www.cfpu.org/bids.aspx>. All prospective bidders must register by email with Julia Faircloth, Procurement Manager at bids@cfpu.org to receive addendums.

A pre-bid meeting will not be held but bidders are encouraged to arrange a site visit with staff at the NSSWTP and the SSWWTP to view the facilities. To arrange a visit please contact Milton Vann at (910) 332-6585. The last day for site visits is September 25, 2019.

The general scope of work includes hauling residuals to the Sampson County Landfill, inter-plant residuals cake transport and cake unloading, blending, storage, and reloading and hauling to the landfill.

All proposal forms must be properly executed and submitted as part of this proposal. The CFPUA reserves the right to reject any or all proposals.

Julia Faircloth
Procurement Manager

INFORMATION FOR BIDDERS

1. BACKGROUND

Introduction

CFPUA operates and maintains two wastewater treatment plants (WWTPs) – the James A. Loughlin (Northside) WWTP (NSWWTP) and the M’Kean Maffitt (Southside) WWTP (SSWWTP).

The NSWWTP is a 16 million gallon per day (MGD) advanced treatment level facility located at 2311 North 23rd Street in Wilmington, NC.

The SSWWTP is a 12 MGD secondary treatment level facility located at 3436 River Road in Wilmington, NC.

2015 - 2019 Performance

Based upon the most recent five years of data, CFPUA estimates 27,000 cubic yards total residual production from both the NSWWTP and the SSWWTP. Based upon an average bulk density of 1,482 pounds per cubic yard, CFPUA estimates an annual total of 20,000 tons residual production.

CFPUA Residuals Management Contracting

The current contract expires December 31, 2019. The new contract will begin January 1, 2020 and will be for a three year period with the option to renew for two additional one year periods.

The pricing structure is based on an estimated 20,000 tons per year.

2. GENERAL INSTRUCTIONS

The Procurement Document will become the contract with the successful bidder.

3. PROPOSAL ADMINISTRATION

Any questions or clarifications regarding this request for proposals shall be directed to Ms. Julia Faircloth, Procurement Manager, by email at bids@cfpua.org. The deadline for receipt of questions is 5:00 P.M., September 25, 2019. Changes or clarifications to the specifications and bid documents will be issued in writing in the form of an addendum which will be distributed to all prospective bidders. Receipt of addenda shall be acknowledged on the proposal form. **Verbal** changes or clarifications shall not be binding upon CFPUA.

All prospective bidders must register by email with Julia Faircloth at bids@cfpua.org to receive addendums.

4. INTERPRETATION OF DOCUMENTS

If any person contemplating submitting a proposal for the proposed contract is in doubt as to the true meaning of any part of the Procurement document, or finds discrepancies in or omissions from the Procurement Document, he may submit to CFPUA a request for an interpretation or correction thereof. Any interpretation or correction of the documents will be made only by Addendum duly issued and a copy of such Addendum will be emailed to each person that has registered with Julia Faircloth to receive addendums. CFPUA will not be responsible for any other explanations or interpretations of the documents. Receipt of that Addendum shall be noted on the proposal form.

5. WITHDRAWAL OF PROPOSAL

Any bidder may withdraw his proposal by written request at any time prior to the scheduled closing time for receipt of proposals. Proposals shall remain valid for a period of 120 days after submittal.

6. AWARD OR REJECTION OF PROPOSALS

The contract will be awarded to the lowest responsive, responsible bidder(s) taking into consideration price, vendor qualifications and performance as well as compliance to applicable laws and regulations and overall clarity and completeness of response to the proposal CFPUA reserves the right to award a contract in the best interest of said Authority or to reject any or all bids and to waive all informalities concerning the bid.

PROPOSAL FORMAT INFORMATION

1. DELIVERY OF PROPOSALS

It is the Bidder's responsibility alone to ensure that the proposal is received by CFPUA prior to the hour and date and at the location specified for the receipt of proposals in the Notice of Request for Proposals. Any proposal received after that hour and date shall be returned unopened.

2. PROPOSAL DOCUMENTS

All proposal documents shall be typewritten or printed in ink clearly and legibly in conformance with the instructions for submitting proposals and submitted in a sealed envelope plainly marked on the outside **"PROPOSAL FOR CFPUA RESIDUALS HAULING SERVICES"**.

The emphasis of the proposal should be on providing information sufficient to demonstrate compliance with requirements set forth in this Request for Proposals. The bidder shall submit one original. The proposal shall be signed by an officer, or officers, authorized to execute legal documents on behalf of the bidder.

The date that the proposal must be submitted and received by CFPUA is hereby set forth as not later than Wednesday, October 2, 2019, on or before the hour of 2:00 P.M.

Proposals shall be properly executed upon the Proposal Forms included within this Request for Proposals. Numbers shall be stated both in writing and figures where so required. In case of a difference in written words and figures in a Proposal, the amount stated in written words shall govern unless obviously in error.

3. PROPOSAL FORMAT

The proposal shall be submitted in the following format with all the requested information and documentation.

- a. Proposal Pricing Form – The Proposal Pricing Form shall be filled out in its entirety
- b. Bidder Questionnaire/Qualifications – The Questionnaire shall be filled out in its entirety.

4. PRICE FOR SERVICES

The bidder is required to provide prices in the Bid Form. Price shall include all costs associated with the work and materials required to meet all of the

conditions described within the Scope of Services. The prices shall be fixed for 12 months. On January 1 of each year the price shall increase 1%.

Pricing is requested for the following three line items:

Item 1- Price per CY for hauling from the Northside Wastewater Treatment Plant to the Southside Wastewater Treatment Plant

Item 2- Monthly Cost of Pad Management at Southside

Item 3- Price per ton for hauling to the Sampson County Landfill from either the Southside Wastewater Treatment Plant or from the Northside Wastewater Treatment Plant

Price Deduct -CFPUA is requesting a price deduction per ton to haul the residuals to the New Hanover County Landfill instead of the Sampson County Landfill. The basis of award shall be the three line items above.

There is no guarantee that the full amount of the contract will be utilized. The actuals hauled may be above or below the estimates. The Contractor shall only be paid for actual work performed.

RESIDUALS MANAGEMENT SERVICES

PROPOSAL PRICING FORM

Date: _____

Proposal of: _____

Address: _____

This proposal is submitted to:

Cape Fear Public Utility Authority
235 Government Center Drive
Wilmington, NC 28403
ATTN: Julia Faircloth, Procurement Manager

1. The undersigned Bidder proposes and agrees, if this proposal is accepted, to enter into a contract with CFPUA in the forms included in the Draft Service Agreement to complete all work as specified or indicated in the Draft Service Agreement together with any supplemental representations and commitments made in conjunction with its proposal for the specified price, within the time frames outlined and in accordance with the Draft Service Agreement.
2. In submitting this Proposal, Bidder represents, as more fully set forth in this Information for Bidders, that:
 - A. Bidder has examined copies of all the Procurement Document and of the following Addenda:

Date	Number
_____	_____
_____	_____
_____	_____

- B. Bidder has examined the sites and locality(s) where the work is to be performed, the legal requirements (Federal, State, and local laws,

ordinances, rules, and regulations) and the conditions affecting cost, progress, or performance of the work and has made such independent investigations as Bidder deems necessary;

- C. This Proposal is genuine and not made in the interest of or on behalf of undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Proposal; Bidder has not solicited or induced any person, firm, or corporation to refrain from Proposing; and Bidder has not sought by collusion to obtain for himself any advantage over any other bidder or over CFPUA; and
- D. The goal/basis of contract award is the lowest pricing offered by qualified contractor(s) for the full/complete range of services

3. Bid Form

Base Bid Items:

Item 1 – Price per CY for hauling from the Northside Wastewater Treatment Plant to the Southside Wastewater Treatment Plant

The Price per CY shall be based on approximately 13,500 CY. Price shall include all costs and materials required to meet all of the conditions described within the Scope of Services.

Price Per CY	Quantity	Total Annual Cost
\$ _____	13,500 CY	\$ _____

Item 2– Monthly Cost of Pad Management at Southside Wastewater Treatment Plant (Cake Blending/Storage Pad Management)

The Price per month for Pad Management shall include all costs associated with the work and materials required to meet all of the conditions described within the Scope of Services.

Price Per Month	Quantity	Total Annual Cost
\$ _____	12 Months	\$ _____

ITEM 3- Price per ton for hauling to the Sampson County Landfill From either the Southside Wastewater Treatment Plant or from the Northside Wastewater Treatment Plant

The Price per ton shall be based on an approximately 20,000 tons, comprised of approximately 10,000 tons NSWWTTP residuals and 10,000 tons SSWWTTP residuals would require removal. Price shall include all costs and materials required to meet all of the conditions described within the Scope of Services.

Price Per Ton	Quantity	Total Annual Cost
\$ _____	20,000 Tons	\$ _____

Price Deduct - Please provide the price deduction per ton to haul the residuals to the New Hanover County Landfill instead of the Sampson County Landfill. The estimated amount that would be hauled to New Hanover County Landfill is 8,000 tons. The basis of award shall be the price per ton noted above for Sampson County Landfill. Do not include this in the total below.

\$(_____)Deduct per ton

Total Annual Cost Items 1- 3 \$ _____

4. BIDDER SIGNATURE

By signing this Bid Proposal Sheet the Company, if selected, agrees to perform the services listed in the preceding pages and bill for services using the rates quoted on this "Bid Proposal Sheet". Company representative, hereby acknowledges that he has read, understands and agrees to the "Standard Terms and Conditions" in the draft service agreement.

Name of Company _____

Bid Submitted By _____
(Name Printed Out)

(Signature)

(Title)

(Date)

Bidder Questionnaire/Qualifications

1. Corporate Information:

Name of Company _____

Address _____

Phone Number _____ Email _____

2. Fleet Information – CFPUA desires a primary commitment of resources (personnel; equipment) dedicated to this project.

Please describe the size of the fleet and types of vehicles/equipment that the company owns/leases. What is the average age of the equipment?

Describe the vehicles/equipment that would be used on this contract. Include average age of the equipment.

3. Key Personnel – Please attach a resume for the individual who will be responsible for managing the daily operations associated with the contract and provide the following information

Name/Title of Contract Contact: _____

Office Location of Contract Contact: _____

Phone Number _____ Email _____

Years with the Company _____

Resume Attached _____ Yes _____ No

4. Driver Experience

Please describe programs for driver training and qualifications:

5. Subcontractors

Please indicate if you plan to utilize subcontractors to complete the scope of work. If yes, please provide their name and qualifications. Subcontractors must be approved by CPFUA staff prior to being utilized. Contractor is solely responsible for any subcontractors and the contractor's insurance shall cover any subcontractors.

6. DOT Compliance - Contractor must adhere to all DOT regulations/restrictions.

Describe means of assuring compliance with roadway restrictions and environmental exposure while transporting the Authority's residuals.

What is your compliance record with NCDOT and OSHA with regard to truck driving records, accidents, and violations?

7. Regulatory Compliance

Environmental compliance is a high priority; what is your organization's record of any citations, sanctions, NOVs with NCDEQ, and other environmental regulatory agencies?

The bidder will comply with the following laws and regulations. Please explain in how you will ensure compliance with the requirements of these laws and regulations, which include but are not limited to:

1. Federal Water Pollution Control Act, 33 USC 1251;
2. USEPA Standards for the Use or disposal of Sewage Sludge, 40 CFR 503;
3. Resource Conservation and Recovery Act, 42 USC 6901;
4. Emergency Planning and community Right-To-Know Act, 42 USC 1101;
5. Hazardous Material Transportation Act, 49 USC 5101;
6. Occupational Safety and Health Act, 29 USC 621;

8. Spill and Emergency Response Plan

Describe the emergency response program for spills and other contingencies.

Describe the frequency and nature of training exercises and the process of maintaining and updating the program

9. Contractor References/Experience – Please provide 3 references for hauling contracts that are similar in size and scope to this contract

i) Company_____

Contact Name/Title_____

Phone Number_____ Email_____

Description of Work Performed/Size of the contract:

ii) Company_____

Contact Name/Title_____

Phone Number_____ Email_____

Description of Work Performed/Size of the contract:

iii) Company_____

Contact Name/Title_____

Phone Number_____ Email_____

Description of Work Performed/Size of the contract:

- 10. Statement Regarding Work Not Completed - Bidder shall submit a listing of all work which has been awarded to you which you have not completed and of contracts on which you have defaulted along with a statement explaining the reason for uncompleted work or default.**

- 11. Insurance Requirements – Please provide proof that the insurance requirements in the contract can be met. This can be accomplished by a insurance certificate or a letter form the insurance company.**

AGREEMENT BETWEEN
CAPE FEAR PUBLIC UTILITY AUTHORITY
AND

THIS AGREEMENT, made this the ____ day of _____, _____ by and between the CAPE FEAR PUBLIC UTILITY AUTHORITY (hereinafter called "CFPUA" or "Authority"), located within New Hanover County, North Carolina; and _____, a corporation organized under the laws of the State of _____, (hereinafter called "Contractor").

W I T N E S S E T H:

1.00 Purpose of Contract

CFPUA possesses two wastewater treatment plants (WWTPs) and one water Treatment Plants (WTPs) – the James A. Loughlin (Northside) Wastewater Treatment Plant (NSWWTP), the M’Kean Maffitt (Southside) Wastewater Treatment Plant (SSWWTP), the Sweeney Water Treatment Plant (SWTP), Residuals sources within these facilities include NSWWTP digested residuals, SSWWTP digested residuals, and SWTP alum residuals. Residuals produced by these facilities are processed in conformance with all regulatory programs/authorizations.

As currently practiced, WWTP residuals and WTP residuals can be separately/individually or collectively blended in any combination for dewatering and/or transport to landfill; they can be co-mingled, co-dewatered, and/or co-transported. Whether performed within CFPUA facilities, within transport trailers, at the SSWWTP extended duration storage area, , the Contractor is responsible for ensuring that blending results in a homogenous dispersal/distribution of all contributing sources to consistent uniform characteristics for processing and dewatering.

CFPUA currently contracts selected components of its overall residuals management program. In seeking to continue this approach, it is important to note the following goals:

- ◆ The contract must be able to accommodate changing needs and requirements. Factors such as wastewater infrastructure, regulatory

impacts, and market/economic climate must receive continuous assessment and may result in changing technologies and quantity and quality of residuals.

2.00 Scope of Services

2.01 Based upon the most recent five years of data, CFPUA estimates 27,000 cubic yards total residual production from both the NSWWTP and the SSWWTP. Based upon an average bulk density of 1,482 pounds per cubic yard, CFPUA estimates an annual total of 20,000 tons residual production. On this basis, it is estimated that 20,000 total tons, comprised of approximately 10,000 tons NSWWTP residuals and 10,000 tons SSWWTP residuals, would require removal.

2.02 The residuals management program services to be performed and will be the sole responsibility of the contractor to include;

Inter-plant residuals transport as needed

Residual blending as needed

Residual maneuvering as needed

Residual storage when needed

Residual removal and transport to Landfill

These contractor responsibilities will serve as the basis for the Contractor's cost proposal.

2.03 Operations responsibilities shall include all labor and materials necessary.

2.04 NSWWTP cake residuals are currently being processed on four clam presses which feed two loading conveyors. Beneath the conveyors are two dump trailers that collect the cake residuals. When the dump trailers reach a full capacity, they are transported to either the storage pad located at SSWWTP or take directly to Sampson County Landfill. On a typical day, two to three full dump trailers will be required to be replaced with empty dump trailers.

CFPUA requires the contractor to be responsive and timely with moving trailers so not to impede press equipment operation. The contractor must also be flexible during occasional occurrences of system upsets whereby additional full dump trailers beyond the normal two to three a day will be required to be replaced with empty dump trailers.

2.05 Cake Blending (SSWWTP) – The SSWWTP cake blending system consists of a hopper for cake residuals unloading, one screw mixer/conveyor and related

accessories necessary to thoroughly blend SSWWTP and non-SSWWTP cake residuals. When necessary the contractor will unload approved non-SSWWTP residuals into said hopper for blending during regular operating hours. The Contractor will notify plant personnel of the event and will take measures not to overload the system.

- 2.06** Extended Duration Residuals Storage (SSWWTP) – The extended duration residuals storage area at the SSWWTP, “the sludge pad”, consists of a contained and covered impoundment area where final residuals products may be placed, mixed/blended, moved, and/or stored for limited periods awaiting removal. This sludge pad is to be maintained by the contractor in such a way as to avoid any sludge from flowing out of or over the containment area. The Contractor is required to remove sludge from the discharge area of the sludge conveyer as needed to prevent a backup or spill. Sludge that is stored on the pad is to be kept under cover. Contractor is required to maintain no more than 1,200 cubic yards of residuals on the sludge pad.

The sludge pad is not to be used to house anything other than sludge and the equipment needed to transport the sludge. The sludge pad area is provided to the Contractor as an aid to efficiently blend and temporarily store sludge but is not guaranteed to be available to the Contractor in whole or in part depending on the needs of the Authority. The Contractor will keep on site whatever equipment is needed to maneuver and load the sludge. The loading of trucks from the sludge pad is limited to concrete areas only and any residuals that spill from the loading or unloading of trucks to be cleaned up immediately by the Contractor. Loading and unloading of trucks during regular operating hours only without prior approval from the Authority.

Residuals storage is provided to offer flexibility to accommodate variability in operating conditions, equipment downtime, and weather conditions. The safe practice is to dispose of residuals as produced to the greatest extent possible, reserving storage capacity for equipment downtime and adverse weather conditions. To consider utilizing extensive amounts of storage capacity to enhance the Contractor’s operating efficiency through campaigning is considered a risky practice, particularly if adverse weather conditions are encountered after an extensive stockpiling/accumulation has occurred. Therefore, the Authority does not condone such action and therefore does not allow stockpiling/accumulation/campaigning.

- 2.07** Product Removal Transport – The product removal transport system refers to such numbers and types of DOT-compliant vehicles, containers, and operators to load, transfer, and unload final residuals products at the landfill

- 2.08** Hauling to Landfill
CFPUA is under contract with Sampson County Disposal, LLC to deliver residuals at the Sampson County Landfill, located in Roseboro, North

Carolina. CFPUA will delegate the contractual delivery responsibility to the Contractor. The Contractor shall deliver Residuals to the Landfill in tarped and fully sealed bed trailers/vehicles, complying with all applicable regulations or procedures which are required by any governmental entity, including, but not limited to, any local rules and the permits pertaining to the Landfill developed in consideration of all affected parties' informational needs.

CFPUA reserves the right to have residuals delivered to another Landfill location.

3.00 Contractual Requirements

3.01 CFPUA and the Contractor shall designate representatives to serve as contract/project managers to assure proper communication and administer satisfactory performance of the contract. The Contractor's designation is subject to affirmation by CFPUA.

3.02 The Contractor agrees to furnish the resources and services and commence and execute the work stated herein on January 2, 2020. CFPUA will provide at least 30 days' notice. The Contractor shall then maintain all services required by this contract for up to thirty-six (36) months from the date of contract execution, unless services are terminated under provisions stated in Section 3.07.

Subject to the provisions of Section 3.07 and this Section 3.02, this agreement shall have an initial term of thirty-six (36) months commencing January 1, 2020. CFPUA and Contractor shall have the option to renew this agreement for two separate twelve (12) months' periods following the initial thirty-six month term and with the written consent of both parties. The prices shall be fixed for 12 months. On January 1 of each year the price shall increase 1%.

If the CFPUA desires to renew this Agreement for an additional 12 months, up to the limit allowed by this Agreement, the CFPUA shall notify the CONTRACTOR no later than 180 days prior to the expiration of the initial term of this Agreement or any renewal term as the case may be. Upon receipt of the renewal offer by CFPUA, the CONTRACTOR shall then provide a response to the CFPUA no later than 135 days prior to expiration. If Contractor accepts renewal, the CFPUA and Contractor will execute a Contract Amendment extending the Agreement for one (1) additional 12 month period.

The Authority may alternatively or simultaneously elect to solicit, receive, and consider pricing proposals for a new thirty-six (36) month contract from qualified entities at appropriate points within the contract term.

3.03 As identified in the accompanying schedule, CFPUA's resources necessary for the Contractor to assume the Contractor's responsibilities will be turned over to the Contractor and their condition documented at contract commencement. Any deficiencies in their condition must be identified at this time.

At the conclusion of the contract, CFPUA's resources will be returned to CFPUA in acceptable condition; that is, in the condition received from CFPUA while accounting for reasonable wear and tear occurring over the intervening time period. Excessive deterioration, poor condition, or damage caused as a result of the Contractor's negligence shall be corrected to CFPUA's satisfaction by the Contractor or deducted from the Contractor's payment(s).

CFPUA's facilities shall be occupied only by those Contractor's resources used on and in the performance of CFPUA's residuals management services contract.

3.04 The Contractor shall ensure that all contracted activities are performed in such a manner as to minimize the development and migration of odors from their origin(s)/source(s).

3.05 While not a designated project responsibility, as necessary, inter-plant cake residuals transport vehicles may be repositioned by the dewatering process operator at his/her discretion in order to facilitate optimum cake loading and uniform cake distribution within the vehicles.

3.06 The Contractor shall assume responsibility for the repair, restoration, maintenance, and/or cleanup of any roadway fouled or damaged, less normal wear and tear, as a result of the performance of any contracted activity.

3.07 From the date of service initiation, the Contractor shall have a thirty (30) day trial period during which the Contractor shall provide sufficient resources and services to achieve the performance requirements of this agreement. If these requirements are not met and maintained, and/or unusual circumstances exist, CFPUA may extend the trial period for an additional thirty (30) days. At the end of the trial period, if the performance requirements are not met, CFPUA may terminate this agreement and require the Contractor to cease all operations at no cost to CFPUA for demobilization.

In the event that review of the Contractor's performance shows non-conformance with the work required by this contract, the scope of services, or other terms and conditions contained herein as a result of the Contractor's errors, omissions, or negligent acts, the Contractor shall be in breach of this agreement and CFPUA may take corrective action as it deems necessary including, but not limited to, termination, or withholding or reduction of payment.

CFPUA shall also have the right to suspend this agreement upon written notice to the Contractor. Such written notice shall state the reason(s) for suspension and allow for a review period of ten (10) days during which the Contractor shall be provided with an opportunity to respond with an explanation or justification, and/or shall undertake any reasonable remedial action required by CFPUA. If, in the opinion of CFPUA, the Contractor remains in violation of this agreement at the completion of the ten (10) day suspension period, CFPUA shall have the right to terminate this agreement whereupon all obligations of CFPUA to the Contractor shall cease. The Contractor may be allowed to continue operations during the suspension upon written consent from CFPUA.

In the event this project is terminated prior to completion of the services by the Contractor, the Contractor shall be paid for contract-compliant services performed to the date of termination. In no event will the amount due the Contractor exceed the amount set forth in paragraph 4.01 of this agreement. The Contractor shall be paid for all reimbursables, as described herein, which are due him.

Should changed conditions affect the ability of either CFPUA or the Contractor to comply with all terms and conditions of the contract or identify the need for additional services, CFPUA and the Contractor may elect to attempt resolution of these issues through negotiation. Failure of these parties to resolve handling of changed conditions to their mutual satisfaction may result in CFPUA seeking a full contract termination or a partial contract termination involving contested services while retaining the Contractor to perform all other non-contested services. CFPUA shall be free to engage other sources of services to execute work deleted from the Contractor's scope of services through partial termination, and nothing shall prevent CFPUA from entering into a separate agreement for new residuals management services not specifically identified within this contract. Should a condition of partial contract responsibilities/partial contract termination not be acceptable to the Contractor, and full contract termination is desired, it shall notify CFPUA of such intent in writing which shall be considered its thirty (30) day notice.

Nothing contained herein shall prevent CFPUA from pursuing any other remedy which it may have against the Contractor including claims for damages.

In the event that either party is unable to perform any of its obligations under this agreement because of any event which is unavoidable and beyond the control of the affected party, (hereinafter referred to as "Force Majeure Event") including but not restricted to: (1) a judicial or administrative decree, regulation direction, change in law or threat of initiating of any legal action not the fault of the party who has been affected; (2) any natural disaster or action of God, the party who has been so affected shall immediately give written notice to the other party and shall be excused from full performance

so long as it is diligently pursuing all reasonable means to eliminate or mitigate the effects of the Force Majeure Event. If the period of non-performance exceeds fifteen (15) days from the receipt of notice of the Force Majeure Event, the parties shall attempt to negotiate revised terms which would allow this agreement to continue. In the event such good faith negotiations are unsuccessful after a fifteen (15) day negotiating period, the affected party may terminate this agreement and, in such case, the affected party shall have no further liability or obligation to the unaffected party.

This Agreement may be terminated without cause by either party upon one-hundred eighty (120) days written notice.

- 3.08** Residuals storage is provided to offer flexibility to accommodate variability in operating conditions, equipment downtime, and weather conditions. The safe practice is to dispose of residuals as produced to the greatest extent possible, reserving storage capacity for equipment downtime and adverse weather conditions. To consider utilizing extensive amounts of storage capacity to enhance the Contractor's operating efficiency through campaigning is considered a risky practice, particularly if adverse weather conditions are encountered after an extensive stockpiling/accumulation has occurred. Therefore, the Authority does not condone such action and discourages excessive stockpiling/accumulation/campaigning.
- 3.09** The Contractor shall hold CFPUA harmless from all work-related injuries occurring to Contractor's personnel as a result of the Contractor working within CFPUA property and facilities as well as operating CFPUA facilities and equipment. Contractor shall correct and hold CFPUA harmless from any OSHA violations that are the fault of the Contractor and shall pay any fines related to Contractor's conduct of operations under this contract.
- 3.10** With respect to emergencies, the Emergency Procedures Plan is incorporated and made part of this contract. In the event of a life-threatening situation, Contractor agrees that emergency medical services will be called by Contractor's personnel. If such personnel are unable to or are not available, CFPUA personnel will contact the emergency medical services on behalf of the Contractor. In situations which are not life-threatening, Contractor's own personnel will make appropriate arrangements for medical attention for its affected personnel consistent with its internal operating procedures. If Contractor's personnel are not available, such personnel will be contacted to come to the plant site. If such personnel is/are not available within a reasonable amount of time, CFPUA may take the injured person to a pre-designated source of medical services/attention and shall notify Contractor's office of such action. Contractor shall hold CFPUA harmless for causing the transport of said individual and this involvement by CFPUA shall only apply in non-life-threatening situations.

3.11 CFPUA supports the fundamental principles of ISO 14001 certification and the National Biosolids Partnership (NBP) in effect at the onset of this contract. In acting on CFPUA's behalf, the Contractor shall support any CFPUA involvement and likewise adopt and adhere to its provisions (if within the scope of services outlined in this agreement) as they exist or may be amended through the term of the contract unless directed otherwise by CFPUA.

4.00 Cost

4.01 Cost Proposal

The Contractor agrees to provide referenced services in accordance with the accompanying 2019 Residuals Hauling Services Contract Cost Proposal. The price per ton shall be fixed for 12 months. On January 1 of each year the price shall increase 1%. There is no guarantee that the full amount of the contract will be utilized. The actual tons hauled may be above or below the estimated 20,000 tons. The Contractor shall only be paid for the work performed.

The total not to exceed price per year shall be \$------. Any additional cost shall must be added by amendment to the contract.

4.02 Payment

On a monthly frequency and on a calendar month basis, the Contractor shall submit a request for payment for all services performed in accordance with this contract to the satisfaction of the Authority. The payment request shall be supported by presentation of sufficient data, measurements, records, etc., so as to substantiate its basis/derivation.

5.00 Release and Indemnity

5.01 To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall hold harmless and indemnify the Authority, its officers, directors, members, partners, employees, of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of the obligations herein undertaken or resulting from the operations conducted, to the extent caused by any negligent act or omission of CONTRACTOR, any sub-consultant of CONTRACTOR, or any individual or entity employed by any of them to perform any of the Services or anyone for whose acts any of them may be liable.

6.00 Personnel

It is mutually agreed that CONTRACTOR is an independent contractor and not an agent or employee of the Authority nor does this create any type of joint employment relationship with any of the employees of the CONTRACTOR. As

such the CONTRACTOR, or any employees thereof, or sub-contractors, or any employees thereof, shall not be entitled to any Authority employment benefits, such as, but not limited to, wages or salary, vacation, sick leave, insurance, workers' compensation, or pension and retirement benefits

7.00 Conflict of Interest

No paid employee of CFPUA shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this Agreement.

8.00 Non-Waiver of Rights

It is agreed that CFPUA's failure to insist upon strict performance of any provision of this Agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this Agreement.

9.00 Assignment of Agreement

It is mutually agreed by the parties hereto that this Agreement is not transferable by either party without the written consent of the other party to this Agreement. No subcontracts shall be utilized by the Contractor for performing the services under this Agreement without the written approval of CFPUA.

10.00 Insurance Requirements

Before commencing any work, the Contractor shall procure insurance in the Contractor's name and maintain all insurance policies for the duration of the contract of the types and the amounts listed in Section 11. The insurance shall provide coverage against claims for injuries to persons or damages to property which may arise from operations or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors, whether such operations by himself/herself or anyone directly or indirectly employed by him/her.

10.01 Contractor shall maintain COMMERCIAL GENERAL LIABILITY (CGL) and, if necessary, COMMERCIAL UMBRELLA LIABILITY insurance with a total limit of not less than \$5,000,000 each occurrence for bodily injury and property damage. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location or the general aggregate shall be twice the required limit.

CGL insurance shall be written on Insurance Services Office (ISO) "occurrence" form CG 00 01 covering Commercial General Liability or its equivalent and shall cover the liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Cape Fear Public Utility Authority, its officers, officials, agents, and employees are to be covered as additional insureds under the CGL by endorsements CG 20 10 or CG 20 33 and CG 20 37 as respects to liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased, or used by the Contractor; and under the commercial umbrella, if any. The coverage shall contain no special limitations on the scope of protection afforded to the Authority, its officers, officials, agents, and employees.

The status of Cape Fear Public Utility Authority as an additional insured under a CGL obtained in compliance with this Agreement shall not restrict coverage under such CGL with respect to the escape or release of pollutants at or from a site owned by, occupied by, rented to, or under permit with the Authority.

There shall be no endorsement or modification of the CGL or Umbrella Liability limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage, employment-related practices, or damage to the named insured's work.

Standard exclusions on the CGL policy apply with respect to Employment Practices Liability and Damage to Named Insured's work. The Contractor may alternatively elect to secure Employment Practices Liability Coverage exceeding the required limit and CGL policy with coverage extended to consequential loss resulting from the insured's work providing equivalent coverage of the identified risk.

The Contractor's Commercial General Liability insurance shall be primary as respects the Cape Fear Public Utility Authority, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by the Authority, its officers, officials, and employees shall be excess of and not contribute with the Contractor's insurance.

10.02 The Contractor shall maintain WORKERS' COMPENSATION as required by the general statutes of the State of North Carolina and EMPLOYER'S LIABILITY Insurance.

The Employer's Liability and, if necessary, Commercial Umbrella Liability insurance shall not be less than \$5,000,000 each accident for bodily injury by accident or \$5,000,000 each employee for bodily injury by disease.

The insurer shall agree to waive all rights of subrogation against Cape Fear Public Utility Authority, its officers, officials, and employees for losses arising from work performed by the Contractor for the Authority.

Where services under this contract include any water or navigational exposures, coverage shall include the U.S. Longshore and Harbor Workers Compensation Act endorsement and/or the Maritime Coverage endorsement (WC 00 02 01).

Where services under this contract include interstate railroad workers, the Federal Employers Liability Act coverage endorsement (WC 00 01 04) is required if applicable.

10.03 The Contractor shall maintain COMMERCIAL AUTO LIABILITY and, if necessary, COMMERCIAL UMBRELLA LIABILITY insurance with a limit of not less than \$5,000,000 each accident.

Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos. The AUTHORITY shall be named an additional insured on this policy.

Commercial Auto coverage shall be written on ISO form CA 00 01, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in ISO form CA 00 01.

Pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached.

The Contractor's Commercial Auto Liability insurance shall be primary as respects the Cape Fear Public Utility Authority, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by the Authority, its officers, officials, and employees shall be excess of and not contribute with the Contractor's insurance.

10.05 The Contractor shall maintain Contractor's POLLUTION LIABILITY covering losses caused by pollution incidents that arise from the operations of the Contractor described under the scope of services of this contract.

Contractor's Pollution Liability shall apply to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured; cleanup costs and defense, including costs and expenses incurred in the investigation defense, or settlement of claims. The policy of insurance offering these required coverages shall be written in an amount of at least \$5,000,000 per claim.

Contractor's Pollution Liability shall include as an additional insured Cape Fear Public Utility Authority, its officers, officials, agents, and employees.

If Contractor's Pollution Liability is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be

exercised for a period of two (2) years beginning from the time that work under the contract is complete.

If the scope of services as defined in this contract includes the disposal of any hazardous or non-hazardous materials from the job site, the Contractor must furnish to the Authority evidence of pollution liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting waste under this contract. Coverage certified to the Authority under this paragraph must be maintained in minimum amounts of \$5,000,000 per loss.

10.06 Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, officials, agents, and employees; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

The Contractor shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not Cape Fear Public Utility Authority is an insured under the policy.

10.07 The policies are to contain, or be endorsed to contain, the following provisions:

Any failure to comply with reporting provisions of the policies listed in Section 11 shall not affect coverage provided to the Authority, its officers, officials, and employees.

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be cancelled by either party except after thirty (30) days prior written notice has been given to Cape Fear Public Utility Authority.

If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

10.08 Insurance is to be placed with insurers licensed to do business in the State of North Carolina with an A. M. Best's rating of no less than A VII unless specific approval has been granted by the Authority.

10.09 The Contractor shall furnish the Authority with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements when the contract is signed, and thereafter upon renewal or replacement of each certified coverage until all operations under this contract are deemed complete.

Evidence of additional insured status shall be noted on the certificate of insurance as per requirements in Section 11.

With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to Cape Fear Public Utility Authority with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the period for which such insurance must be maintained.

10.10 The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. Commercial General Liability coverage shall include independent contractors' coverage, and the Contractor shall be responsible for assuring that all subcontractors are properly insured.

10.11 Miscellaneous provisions:

The insurance required for this contract must be on forms acceptable to the Authority.

The Contractor shall provide that the insurance contributing to satisfaction of insurance requirements in Section 11 shall not be cancelled, terminated, or modified by the Contractor without prior written notice to the Authority by the insurance carrier.

The Contractor shall promptly notify the CFPUA Project Manager of any accidents arising in the course of operations under the contract causing bodily injury or property damage.

The Authority reserves the right to obtain complete, certified copies of all required insurance policies at any time.

Failure of the Authority to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of the Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.

By requiring insurance herein, the Authority does not represent that coverage and limits will necessarily be adequate to protect the Contractor and such coverage and limits shall not be deemed as a limitation of the Contractor's liability under the indemnities granted to the Authority in this contract.

If the Contractor fails to maintain the insurance as set forth herein, the Authority shall have the right, but not the obligation, to purchase said insurance at the Contractor's expense.

The Contractor or his engineer may apply to the Authority for approval of higher deductibles based on financial capacity and quality of the carrier affording coverage.

The Authority shall have the right, but not the obligation, of prohibiting the Contractor or any subcontractor from entering the project sites or withholding payment until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Authority.

11.00 Findings Confidential

All of the information, reports, cost estimates, plans, specifications, and documents prepared or assembled by the Contractor under this Agreement are the property of CFPUA. The Contractor agrees that any such documents shall not be made available to any individual or organization other than appropriate CFPUA officials or as required by law without prior written approval of CFPUA. Nothing contained in this paragraph shall be construed to prevent the Contractor from making information, reports, and documents available to those individuals or firms directly concerned with the project involved with prior written agreement of CFPUA.

12.00 Entire Agreement

This Agreement constitutes the entire understanding of the parties.

13.00 Subcontracts

The Contractor shall utilize no subcontracts for carrying out the services to be performed under this agreement without the written approval of CFPUA.

14.00 Binding Effect

This Agreement shall be binding upon the successors, assigns, agents, officials, employees, independent contractors, and subcontractors of the parties.

15.00 Continuing Obligation

The parties will make and execute all further instruments and documents required to carry out the purposes and intent of this Agreement.

16.00 Reference

Use of the masculine includes feminine and neuter, singular includes plural, and captions and headings are inserted for convenience of reference and do not define, describe, extend, or limit the scope of intent of the Agreement.

17.00 Interpretation

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina. In the event of a conflict between the various terms and other applicable provisions, then the

more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard.

18.00 Saving Clause

If any section, subsection, paragraph, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions thereof.

19.00 Other Laws and Regulations

The Contractor will comply with any and all applicable Federal, State, and local standards, regulations, laws, statutes, and ordinances regarding toxic, hazardous, and solid wastes and any other pollutants; public and private nuisances; health or safety; and zoning, subdivision, or other land use controls. The Contractor will take all reasonably necessary, proper, or required safety, preventive and remedial measures in accordance with any and all instructions and directives from the North Carolina Department of Environmental Quality, the United States Environmental Protection Agency, the North Carolina Division of Environmental Management, Health Departments, and any other Federal, State, or local agency having jurisdiction, to ensure the prompt prevention or cessation, now or in the future, of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued thereunder.

The contractor shall provide five (5) copies of its "Operations Manual", acceptable to CFPUA, that would include, but not be limited to, the technical services procedure, equipment schematics, and stating or demonstrating the methodology for compliance with the laws and regulations of the above-stated agencies. If such a manual is not available at the time of contract execution, the contractor shall provide such information within ninety (90) days after execution.

20.00 Amendments

This Agreement shall not be modified or otherwise amended except in writing signed by the parties.

21.00 Nondiscrimination

The Contractor will take affirmative action not to discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the benefits of the program which is the subject of this Agreement because of race, creed, color, sex, age, disability, or national origin. To the extent applicable, the Contractor will comply with all provisions of Executive Order No. 1 1246 the civil Rights Act of 1964, (P.L. 88-352) and 1968 (P.L. 90-284), and all applicable Federal, State, and local laws, ordinances, rules, regulations, orders, instructions, designations, and other directives promulgated to prohibit discrimination. Violation of this

provision, after notice, shall be a material breach of this Agreement and may result, at CFPUA's option, in a termination or suspension of this Agreement in whole or in part.

22. E-VERIFY

CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if CONTRACTOR utilizes a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

23. ADVERTISING

No advertising, sales promotion, or other materials of the CONTRACTOR will identify or reference this contract, or the Cape Fear Public Utility Authority's name without the written consent of the Authority. Exception may be taken to the above with regard to listing the Authority as a job history reference in responses to requests for proposals.

24. ENVIRONMENTAL POLICY

The AUTHORITY has developed and implemented an ISO 14001 Environmental Management System (EMS), and is third party certified. Per the certification the Authority must ensure all persons doing work on their behalf is made aware of our Environmental Policy. The Environmental Policy can be found on the CFPUA website www.cfpu.org, click on the Departments tab, Environmental Management, and then choose Environmental Management. Contractor/Vendor certifies by signing this agreement that they have reviewed the Environmental Policy and understand their work contributes to the effectiveness of the EMS and may have a positive or negative impact on the Environment.

25. IRAN DIVESTMENT ACT

Contractor certifies by signing this agreement that they are in compliance with the Iran Divestment Act, N.C.G.S. Chapter 147 Article 6E and as of the date listed below, the Contractor named in this agreement is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58. Contractor shall not utilize any subcontractor found on the State Treasurer's Final Divestment List pursuant to N.C.G.S. 147-86.58 located on the State Treasurer's website at the address www.nctreasurer.com/Iran.

IN WITNESS THEREOF, CFPUA has caused this Agreement to be duly executed in its name and behalf and the Contractor has caused this Agreement to be duly executed in its name and behalf and its corporate seal to be hereunto affixed, and attested to.

This Agreement will be effective on _____

CONTRACTOR

CONTRACTOR'S SEAL:

ADDRESS:

ATTEST:

BY:

BY:

PRINTED:

PRINTED:

TITLE:

TITLE:

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that the corporation's Secretary, Assistant Secretary, or Trust Officer, Mr./Mrs./Ms. _____ personally came before me this day and acknowledged that s/he is the _____ of _____, a corporation, and that by authority duly given and as act of the corporation, the foregoing instrument was signed in its name by its President, Vice President, or Assistant Vice President, Mr./Mrs./Ms. _____, sealed with its Corporate Seal, and attested by him/herself as its Secretary, Assistant Secretary, or Trust Officer.

WITNESS my hand and official seal this the _____ day of _____, 20 ____.

Notary Public

My commission expires: _____

OWNER

CAPE FEAR PUBLIC UTILITY AUTHORITY SEAL:

235 Government Center Drive
Wilmington, North Carolina 28403

BY: _____ ATTEST: _____
James R. Flechtner Donna S. Pope
Executive Director Clerk to the Board

NORTH CAROLINA
NEW HANOVER COUNTY

I, _____, the undersigned Notary Public, do hereby certify that Donna S. Pope personally came before me this date and acknowledged that she is the Clerk to the Board of Cape Fear Public Utility Authority, Wilmington, North Carolina, and that, by authority duly given and the act of the Board, the foregoing document was signed in its name by its Executive Director, sealed with its corporate seal, and attested by herself as its Clerk.

WITNESS my hand and official seal this the ____ day of _____, 20 ____

Notary Public

My commission expires _____

AUTHORITY ATTORNEY’S CERTIFICATION

This instrument has been reviewed and is approved as to form this the ____ day of _____, 20 ____.

Linda Miles
Consulting Attorney to the Board

AUTHORITY ACCOUNTANT’S CERTIFICATION

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act this the ____ day of _____, 20 ____.

John McLean
Chief Financial Officer