



County of Orange  
Financial Services Department - Purchasing Division

**REQUEST FOR PROPOSAL #5212**  
Orange County Environment and Agriculture Center ("EAC")  
August 18, 2015

Orange County (the "Owner") is inviting interested and qualified firms to submit statements of qualifications for professional architectural/engineering services for the design of a new Environment and Agriculture Center ("EAC") that will replace its aging facility located on Revere Road in Hillsborough, North Carolina.

The design may include adaptive re-use of portions of the existing structure depending upon the designer's concept, cost, and feasibility. The design may include a phased construction concept in order to allow the existing facility services to remain in place during the project. Firms must be licensed-in the State of North Carolina and shall have extensive experience in the planning, design, and construction of consolidated Agriculture and Environment Service Centers. Firms shall have experience in working within the Construction Manager at Risk project delivery method should the County choose to employ this process.

The services solicited in this Request for Qualifications (RFQ) will include a full range of basic and specialty professional services as outlined in the scope of services.

Proposals must be received in the office of the Purchasing Agent, 200 S. Cameron Street, PO Box 8181, Hillsborough, NC 27278 no later than **5 pm (EST) September 10, 2015.**

### **I. Background**

The current EAC facility is a re-purposed retail building built in 1960 that originally served as a grocery store. The facility has housed several County departments since being acquired in 1989. The facility has never been efficient in its construction, operation, and space utilization for the services it has delivered to this point, Attached is a current facility summary including the space plan and site aerial for the respondent's use.

The facility is anticipated to house several divisions of the Department of Environment, Agriculture, Parks & Recreation ("DEAPR"), the local Cooperative Extension Office, Soil & Water Services, the local Farm Services Agency, and the local Forestry Service operations office. The facility is also envisioned to house a large meeting facility and teaching kitchen as well as outdoor agriculture demonstration/teaching areas.

### **Facility Program**

The design will include program development based upon needs analysis and space utilization exercise. The selected designer will lead this process involving an appropriate stakeholder group assembled by the Owner.

## II. SCOPE OF SERVICES

The selected firm shall be responsible for the program, schematic design, design development, construction documents, bidding assistance, and construction administration of a new EAC. The owner may choose to develop this project utilizing the Construction Manager at Risk delivery method. The firm will work with an Owner design committee which shall include but not be limited to the County Manager, Asset Management Services Director, and the Director of Environment, Agriculture, Parks & Recreation. The County Manager shall have final approval on all decisions relative to this project.

The firm shall be responsible for preparing and updating budget cost estimates in coordination with the owner for all phases of the project including such items as construction costs, site development, geo-technical analysis, furniture, fixtures & equipment, technology, professional fees, contingency costs and all other relative costs associated with the project. The firm shall also provide a timeline for implementation and completion of the project.

The firm shall be prepared to meet as required to receive input and/or provide updates.

The firm shall provide a computerized model of the final design, including elevations and selected floor plans for use in public presentations. The firm shall assist in the creation of print and multimedia items which will be used in marketing, and public awareness. The firm shall also provide electronic file as-builts of the project in a format mutually agreed to with the Owner.

## III. SUBMISSION

- A. Submittals: Submit five (5) hard copies (duplex printing on recycled paper), marked "New Orange County EAC" and one (1) electronic copy (single pdf file on thumb drive or CD) with firm's name in the filename. Failure to submit the firm's response in a single pdf file could make the submittal non-responsive. Proposals must be received in the office of the Purchasing Agent, 200 S. Cameron Street, PO Box 8181, Hillsborough, NC 27278 no later than 5 pm (EST), September 10, 2015.
- B. Qualification packages may be hand-delivered or mailed. If the submittal is sent by mail or commercial express, the Respondent shall be responsible for actual delivery of the qualification package to the proper county office before the deadline. All submittals become property of the County. Request for Qualification packages will not be accepted via fax machine or internet e-mail.
- C. Mark outside of envelope with **RFQ No. 5212** and proposal subject, "Orange County Environment & Agriculture Center".
- D. Time is of the essence and any proposal or addenda pertaining thereto received after the announced time and date for submittal, whether by mail or otherwise, will be rejected. It is the sole responsibility of the firm to ensure that their proposal is received by the Purchasing Department personnel before the deadline indicated above. There is nothing in this RFQ that precludes the County from requesting additional information from firms at any time during the qualification process.
- E. Nothing herein is intended to exclude any responsibilities or in any way restrain or restrict competition. On the contrary, all responsible firms/individuals are encouraged to

submit responses. The County of Orange reserves the right to waive any informality, to reject any and/or all proposals, and to accept any proposal which in its opinion may be in the best interest of the County.

- F. Qualification packages may be withdrawn by written request prior to submittal deadline.

#### IV. PREPARATION

- A. Firms are to submit their qualifications and understanding of the services to be performed. Emphasis should be placed on completeness of services offered and clarity of content. All submittals should be complete and carefully worded and must convey all of the information requested by the County. If errors or exceptions are found in the firm's qualification package, or if the package fails to conform to the requirements of the RFQ, the County will be the sole judge as to whether that variance is significant enough to reject the firm's submittal.
- B. Qualification packages should be prepared simply and economically. All data, materials, and documentation shall be available in a clear, concise form. Orange County does not expect nor will any more favorable consideration be given to submittals with fancy covers or binding, color photographs, sample plans, non-pertinent information on other accomplishments of the firm which have no direct bearing on these projects, resumes of individuals who will not be engaged in the work, or pages of other non-projected related material. **Brevity will be appreciated.** Submittals shall be limited to thirty (30) pages, double sided 8 ½ x 11 (fifteen sheets of paper), minimum 12 point font. Covers, dividers, affidavits and Responder's Certification Form do not count in the thirty (30) pages total.
- C. Firms requiring clarification or interpretation of this RFQ shall make a written request, which shall reach the Orange County Purchasing Department no later than the date and time for submittal of written questions (see Section V, paragraph C).
- D. Any interpretation, correction or change of this RFQ will be made by Addendum. Addenda will be mailed or delivered to all who are known by the County Purchasing Department to have received a complete set of RFQ documents. It is the responsibility of the firm to ensure that all Addenda were received.
- E. All submittals shall provide a straight forward, concise description of the firm's ability to satisfy the requirements of the RFQ.
- F. Qualification packages (and copies) should be bound in a single volume where practical. All documentation submitted with the offer should be bound in that single volume.
- G. In addition to the transmittal letter, the (included) Non-Collusion Affidavit and E-Verify Affidavit must be signed by a principal of the firm or an officer of the corporation duly authorized to bind the corporation.
- H. If any submittal includes comments over and above the specific information requested in this RFQ such comments must be included as a separate appendix.

- I. The firm is solely responsible for all costs and expenses associated with the preparation of the submittal and of any supplementary presentation (including any oral presentation) if requested by County.
- J. Qualification Packages must be made in the official name of the individual, firm, or corporation under which the business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the business entity submitting the qualification.

**V. GENERAL TERMS AND CONDITIONS**

**A. NON-COLLUSION AFFIDAVIT**

Each qualification package must be accompanied by a *notarized* affidavit of non-collusion, executed by the firm or in the case of a corporation, by a duly authorized representative of said corporation. The Non-Collusion Affidavit is provided herein.

**B. ADDENDA/CHANGES**

Any additions, deletions, modifications or changes made to this RFQ shall be processed through the Orange County Purchasing Department. Any deviation from this procedure may result in the disqualification of the firm's submittal or the cancellation of any contract resulting from this RFQ.

**C. E-VERIFY**

HB786 imposes E-Verify requirements on contractors who enter into certain contracts with state agencies and local governments. The legislation specifically prohibits governmental units from entering into certain contracts "unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes." (Article 2 of Chapter 64 establishes North Carolina's E-Verify requirements for private employers). It is important to note that the verification requirement applies to subcontractors as well as contractors. The new laws specifically prohibit governmental units from entering into contracts with contractors who have not (or their subs have not) complied with E-Verify requirements. Complete the attached affidavit, and include it with your submittal.

**D. QUESTIONS**

Questions concerning this RFQ should be directed to:

Orange County Purchasing Department  
David Cannell Purchasing Agent,  
200 S Cameron Street, PO Box 8181,  
Hillsborough, NC 27278;  
(919) 245-2651 (v); [919-636-4913](tel:919-636-4913) (f)  
[dcannell@Orangetcountync.gov](mailto:dcannell@Orangetcountync.gov) (preferred method)

**All questions pertaining to this RFQ must be submitted in writing no later than September 2, 2015 at 5:00 pm.**

Only written questions will be considered formal. **Any information given by telephone will be considered informal.** Any questions that the County feels are pertinent to all proposers will be mailed as an addendum to the RFQ. Fax and e-mail messages will be treated as written questions.

**E. PROPRIETARY INFORMATION**

Trade secrets or proprietary information submitted by a firm in connection with a procurement transaction shall not be subject to the public disclosure under the North Carolina Public Records Act pursuant to NC General Statutes §66-152(3). However, the firm must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the data on other materials to be protected and state the reasons why protection is necessary. **Each individual page considered a trade secret or proprietary information must be labeled “Confidential” in the top right corner.**

**F. MINORITY BUSINESSES**

The County of Orange encourages all businesses, including DBE, minority and women-owned businesses to respond to all Requests for Qualifications.

**G. AWARD/CONTRACT TIME**

No part of this solicitation is to be considered part of a contract, nor are any provisions contained herein to be binding of Orange County.

Award shall be made to the responsible firm whose qualifications are determined to be most advantageous to the County, taking into consideration the evaluation factors set forth in the RFQ.

A notice of contract award is anticipated no later than October, 2014. The detailed Scope of Work and schedule of deliverables shall be negotiated with the successful firm.

The successful firm will be **required** to enter into the county’s standard design consultant services agreement. A copy of the County’s standard Agreement is attached.

**G. SUBCONSULTANTS**

If any sub-consultants will be used for the project, the successful firm shall provide to the Purchasing Agent a list of names of any of the intended sub-consultants, their applicable license number(s) and a description of the work to be performed by each sub-consultant.

The successful firm shall not substitute other sub-consultants without the written consent of the County.

The successful firm shall be responsible for all services performed by a sub-engineer as though they had been performed by the successful firm. Responsibilities include, but are not limited to, compliance with applicable licensing regulations.

If at any time the County determines that any sub-engineer is incompetent or undesirable, the County shall notify the successful firm accordingly, and the successful firm shall take immediate steps for cancellation of the subcontract and replacement.

Nothing contained in any contract resulting from this RFQ shall create any contractual relationship between any sub-engineer and the County of Orange.

It shall be the successful firm's responsibility to ensure that all terms required in the attached contract that is executed are incorporated into all subcontracts.

#### H. INSURANCE

The successful respondent will be required to show proof of professional liability insurance in types and amounts satisfactory to the County. The County typically requires liability limits of at least \$1,000,000 per occurrence with a \$2,000,000 aggregate coverage. Exact limits would be determined during contract negotiations.

Respondents will also cite in their response, any and all claims that have been filed against the professional liability insurance carried by the respondent within the past ten years, regardless of the settlement disposition.

#### VI. STATEMENT OF QUALIFICATIONS REQUIREMENTS

**In order to expedite the evaluation of proposals, each Respondent shall organize its qualification package in accordance with this section.** Firms that do not follow the specified outline may be deemed non-responsive and may be disqualified from the evaluation process.

- Section 1. Completed Responders' Certification Form and *notarized* Non-Collusion Affidavit
- Section 2. Introduction: Firm name, address, telephone, fax number, contact person and e-mail address; year established and former firm names; Include names of principles of the firm and the states in which they are registered; and types of services for which the firm is qualified;
- Section 3. Cover letter confirming that the elements of the RFQ have been reviewed and understood. The cover letter should be signed by an individual authorized to bind the firm contractually.
- Section 4. Experience: Provide a statement of your understanding of the scope of work/services requested; specifically with regards to County Agriculture & Environment Service Centers Also include a brief discussion regarding your experience working with the various Federal, State and local agencies with whom you will work with in designing the most useful and effective facility.

- Section 5. Project Team: List of staff members and resumes of those persons who will be assigned to work with the County on this project. Include an Organizational Chart but do not include resumes or list personnel who will not be assigned to this project. Also include the firm's commitment to keep the originally-assigned project team through project completion.
- Section 6. Describe the firm's construction administration service delivery model.
- Section 7. Orange County Government desires to utilize this construction project to enhance the local economy. Describe manner in which firm would encourage local construction companies' participation in this project.
- Section 8: List of current ongoing projects. Include: Project start date; expected completion date; total project cost; your ability to devote staff resources to complete this project. Describe how other existing trips to the area could contribute to cost savings on the services sought within this RFQ.
- Section 9: List and describe up to five (5) of your firm's previous experiences in the planning, design and construction of County Agriculture and Environment Service Center projects similar in nature to the one for which this Request for Qualifications is being sought

For each project listed, the information should include:

- Name and location of the project
- Brief description of the project
- Date the project was completed
- Name and telephone number of owner
- Name of the firm's project manager assigned to each listed project
- Original contract amount
- Number of change orders and total amount of change orders
- Total project cost (inclusive of change orders)

Section 10: Names of outside consultants (sub-consultants) who would be retained to provide services required for these projects. Provide a one-page synopsis for each consultant to include the following information:

- Individual's proposed role in the project
- A resume or brief description of the individual's previous experience as it relates to his/her role in the project
- For any proposed sub consultants, indicate how long your firm has worked with the sub-consultant on previous projects

Section 11: Firms willingness to affiliate with minority, woman-owned, or disadvantaged businesses.

Section 12: Demonstration of Quality Control and Assurance processes as stated above in Section VI.

Section 13: Letter disclosing any pending litigation or litigation within the last ten years

related to the firm' projects.

Section 14: Hourly billing rates charged by your firm each position type and reimbursable expenses.

Section 15: Firms willingness to sign Orange County Standard Contract Agreement for Design Consultant Services (copy attached).

## **VII. EVALUATION PROCESS:**

Following the deadline for submittal of qualifications, a review of the submitted qualifications will be conducted by a selection committee established by the County Manager. The selection committee will review all submittals based on their response to the information requested. The committee shall then make a recommendation to the County Manager based on criteria established herein.

If desired, the selection committee may short list a number of qualified firms. The County reserves the discretion to determine the number of firms that will be on the short list. The County may engage in individual discussions with two or more firms deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Interviews are not anticipated; however, the selection committee may schedule interviews if desired in the selection process. Such firms shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts.

The selection committee may conduct discussions with the firm(s) submitting responses regarding the contract and shall select from among the firm(s) deemed most qualified to provide the required services. At the discretion of the County, the discussions with the firm(s) may consist of written questions and responses, and/or personal interviews with members of the firm(s). If personal interviews are required by the County, the persons proposed to be responsible for performing the work required herein shall attend the interview. If requested, firms should be prepared to submit financial status information, which shall be held in confidence.

The County will negotiate a stipulated lump sum fee for basic services and a rate schedule to be utilized for additional services and contingent additional services with the most qualified firm at a compensation which is considered to be fair and reasonable to the County. These rates shall include all disciplines (example: architect, project manager, engineers, administrative staff, etc.). The rate schedule for additional services shall remain firm throughout project completion. In making this decision, the County will take into account the established value, general scope, the complexity, and the professional nature of the services to be rendered. Should the County be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be formally terminated.

Negotiations will then proceed with the remaining ranked firms in the same manner until an agreement is reached, unless it is determined by the committee that it is in the best interest of the County that the process be terminated or modified.

The County of Orange reserves the right to reject any and/or all submittals, and to waive defects, technicalities and/or irregularities in any submittal. The County reserves the right to

finalize a contract with one firm based on all information submitted in the written qualification submittal without further discussion or interviews.

## **VIII. SELECTION PROCESS**

The included criteria may be used in the evaluation of qualification packages for development of a shortlist to be considered for potential negotiations. These criteria are not necessarily listed in order of importance.

- Firms qualifications and experience including location of offices and related staffing
- Firms understanding of the project objectives
- Previous work experience on similar projects and demonstrated experience in the design and construction of similar projects.
- Familiarity with construction in central counties which have unique soil and site requirements
- Demonstrated strategy to encourage local participation by the Orange County construction market
- Proposed staff, including sub-contracted professionals, proposed to perform the work
- Financial stability of the firm
- Demonstration of Quality Control: Demonstrated systematic approach to quality assurance and interdisciplinary coordinator methodologies throughout the various phases of design and construction administration.
- Demonstration of Cost Control: Demonstrated experience implementing cost saving measures that effectively maximized the utilization of funding from a variety of sources and minimized unnecessary expenses while achieving desired results.
- The ability of the consultant to begin work immediately and complete the projects in a timely manner.
- References: Evaluation of comments received from referenced previous clients

## **IX. CONTACT POLICY**

After the date and time established for receipt of proposals by the County, any contact initiated by any firm with any County representatives, other than the Purchasing Agent listed herein, concerning this RFQ is prohibited. Any such unauthorized contact may cause the disqualification of the firm from this qualification process.

By: David E. Cannell,  
Purchasing Agent,  
Orange County, North Carolina

**RESPONDER'S CERTIFICATION FORM**

I have carefully examined the Request for Qualifications, the sample Agreement for Design Consultant Services and any other documents accompanying or made a part of this Request for Qualification.

I hereby propose to furnish the professional design consultant services for Orange County in accordance with the instructions, terms, conditions, and requirements incorporated in this Request for Qualification. I certify that all information contained in this response is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this response on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

NAME OF FIRM: \_\_\_\_\_

BY: (printed name)\_\_\_\_\_

SIGNATURE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP CODE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

**ACKNOWLEDGEMENT OF ADDENDA**

Responder hereby acknowledges receipt of all Addenda through and including:

Addendum No.	Date	Acknowledgement
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**NON-COLLUSION AFFIDAVIT**

State of North Carolina  
County of Orange

Proposal Request No. 5212

\_\_\_\_\_, being first duly sworn, deposes and says that:

- 1. He/She is the \_\_\_\_\_ of \_\_\_\_\_, the proposer that has submitted the attached proposal;
- 2. He/She is fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;
- 3. Such proposal is genuine and is not a collusive or sham proposal;
- 4. Neither the said proposer nor any of its officers, partners, Owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer firm or Person to submit a collusive or sham proposal in connection with the contract for which the attached proposal has been submitted or to refrain from proposing in connection with such contract, or has in any manner, directly or indirectly sought by agreement or collusion of communication or conference with any other proposer, firm or person to fix the price or prices in the attached proposal or of any other proposers, or to fix any overhead, profit or cost element of the proposal price of the proposal of any other proposer or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the County of Orange or any person interested in the proposed contract; and
- 5. The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Subscribed and Sworn to Before Me,

This \_\_\_\_\_ day of \_\_\_\_\_, 20

Notary Public \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

AFFIDAVIT

ORANGE COUNTY

\*\*\*\*\*

I, \_\_\_\_\_ (the individual attesting below), being duly authorized by and on behalf of \_\_\_\_\_ (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).

2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).

3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (mark Yes or No)

a. YES \_\_\_\_\_, or

b. NO \_\_\_\_\_

4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Signature of Affiant  
Print or Type Name: \_\_\_\_\_

State of North Carolina Orange County

Signed and sworn to (or affirmed) before me, this the \_\_\_\_\_

day of \_\_\_\_\_, 201\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

(Affix Official/Notarial Seal)

# ENVIRONMENT & AGRICULTURE CENTER

306 REVERE ROAD  
HILLSBOROUGH

**Ownership:** Owned

**Year Built:** 1960

**Year Added:** 1985

**Property Total (Est. Acres):** 3.84\*

**Gross Square Footage (Est.):** 19,087

\*Additional County facilities located on same parcel.



## Building Notes:

Original grocery store and adjoining "green stamp" store. Complete renovation in 1987 for occupancy by County. Lighting upgrades 1998. Porch enclosed in 2000 to provide office space for then new Environment and Resource Conservation Department. Planning & Inspections and Environmental Health relocated to West Campus Office Building, November 2009.

## Property Information:

### Address:

306 REVERE ROAD  
HILLSBOROUGH, 27278

### PIN:

9864896332

### Zoning District:

GENERAL COMMERCIAL

### Insured Value:

\$2,525,400.00

## Aerial View of Property and Building



## Occupants/Operators:

DEAPR  
Cooperative Extension  
Farm Service Agency  
Soil & Water Conservation  
FHA Inspections  
Records Storage

# ENVIRONMENT & AGRICULTURE CENTER

## UTILITY COSTS & USAGE

Period: 7/1/2013 - 6/30/2014

	<b>Usage:</b>	<b>Costs:</b>	<b>\$/ SQ. FT</b>	<b>Service Provider</b>
Electricity (KWH):	171,746	\$16,572.90	\$0.87	Duke Energy
Water/Sewer (Gallons):	43,943	\$821.51	\$0.04	
Natural Gas (Therms):	4,538	\$4,510.73	\$0.24	PSNC
<b>TOTAL:</b>		<b>\$21,905.14</b>	<b>\$1.15</b>	

## MAINTENANCE COSTS

Period: 7/1/2013 - 6/30/2014

	<b>Costs:</b>	<b>\$/ SQ. FT</b>
Maintenance & Repair Costs:	\$8,476.08	\$0.44

## SERVICES:

Daily Cleaning Service:AMS  
 Building Maintenance :AMS

## LIFE/SAFETY

Fire Alarm System	No
Intruder Alarm System	No
Sprinkler System	No
Emergency Generator	No

FLOOR/AREA:First Floor



**NORTH CAROLINA**

**CONSULTING SERVICES AGREEMENT**

**ORANGE COUNTY**

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (“Effective Date”) by and between Orange County, North Carolina a body politic and corporate of the State of North Carolina (hereinafter, the "County") and \_\_\_\_\_, (hereinafter, the "Consultant").

**WITNESSETH:**

That the County and Consultant, for the consideration herein named, do hereby agree as follows:

**ARTICLE 1            SCOPE OF WORK**

1.1        Scope of Work

1.1.1      This Services Agreement (“Agreement”) is for professional consulting services to be rendered by Consultant to County with respect to (insert type of project)

1.1.2      By executing this Agreement, the Consultant represents and agrees that Consultant is qualified to perform and fully capable of performing and providing the services required or necessary under this Agreement in a fully competent, professional and timely manner.

1.1.3      Time is of the essence with respect to this Agreement.

1.1.4      The services to be performed under this Agreement consist of Basic Services, as described and designated in Article 3 hereof. Compensation to the Consultant for Basic Services under this Agreement shall be as set forth herein.

**ARTICLE 2            RESPONSIBILITIES OF THE CONSULTANT**

2.1        Services to be Provided. The Consultant shall provide the County with all services required in Article 3 to satisfactorily complete the Project within the time limitations set forth herein and in accordance with the highest professional standards.

2.2.        Standard of Care

2.2.1      The Consultant shall exercise reasonable care and diligence in performing services under this Agreement in accordance with the highest generally accepted standards of this type of Consultant practice throughout the United States and in accordance with applicable federal, state and local laws and regulations applicable to the performance of these services. Consultant is solely responsible for the professional quality, accuracy and timely completion and submission of all reports, drawings, specifications, plans, documents and services (hereinafter “Deliverables”) related to the Basic Services.

2.2.2 The Consultant shall be responsible for all errors or omissions, in the deliverables prepared by the Consultant.

2.2.3 The Consultant shall correct at no additional cost to the County any and all errors, omissions, discrepancies, ambiguities, mistakes or conflicts in any Deliverables prepared by the Consultant.

2.2.4 The Consultant shall assure that all Deliverables prepared by it hereunder are in accordance with applicable laws, statutes, and that any necessary or appropriate applications for approvals are submitted to federal, state and local governments or agencies in a timely manner so as not to delay the Project.

2.2.5 The Consultant shall not, except as otherwise provided for in this Agreement, subcontract the performance of any work under this Agreement without prior written permission of the County. No permission for subcontracting shall create, between the County and the subcontractor, any contract or any other relationship.

2.2.6 Any and all employees of the Consultant engaged by the Consultant in the performance of any work or services required of the Consultant under this Agreement, shall be considered employees or agents of the Consultant only and not of the County, and any and all claims that may or might arise under any workers compensation or other law or contract on behalf of said employees while so engaged shall be the sole obligation and responsibility of the Consultant.

2.2.7 Consultant agrees that Consultant and its subcontractors, if any, shall be required to comply with all federal, state and local antidiscrimination laws, regulations and policies that relate to the performance of Consultant's services under this Agreement.

2.2.8 If activities related to the performance of this agreement require specific licenses, certifications, or related credentials Consultant represents that it and/or its employees, agents and subcontractors engaged in such activities possess such licenses, certifications, or credentials and that such licenses certifications, or credentials are current, active, and not in a state of suspension or revocation.

**ARTICLE 3            **BASIC SERVICES****

3.1        Basic Services

3.1.1 The Consultant shall perform as Basic Services the work and services described herein and as specified in the County's "RFP Number            for            (the "RFP")" issued            , 20            , which is fully incorporated and integrated herein by reference together with Attachments            (designate all attachments).

3.1.2 The Basic Services will be performed by the Consultant in accordance with the following schedule: (Insert task list and milestone dates)

<u>Task</u>	<u>Milestone Date</u>
1.	
2.	

- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

3.1.3 Should County reasonably determine that Consultant has not met the Milestone Dates established in Section 3.1.2 of this Article, County shall notify Consultant of the failure to meet the Milestone Date. The County, at its discretion may provide the Consultant seven (7) days to cure the breach. County may withhold the accompanying payment without penalty until such time as Consultant cures the Breach. In the alternative, upon Consultant's failure to meet any Milestone Date the County may modify the Milestone Date schedule. Should Consultant or its representatives fail to cure the breach within seven (7) days, or fail to reasonably agree to such modified schedule County may immediately terminate this Agreement in writing without penalty or incurring further obligation to Consultant. This section shall not be interpreted to limit the definition of breach to the failure to meet Milestone Dates.

#### **ARTICLE 4 DURATION OF SERVICES**

##### 4.1 Scheduling of Services

4.1.1 The Consultant shall schedule and perform his activities in a timely manner so as to meet the Milestone Dates listed in Article 3.

4.1.2 Should the County determine that the Consultant is behind schedule, it may require the Consultant to expedite and accelerate his efforts, including providing additional resources and working overtime, as necessary, to perform his services in accordance with the approved project schedule at no additional cost to the County.

4.1.3 The Commencement Date for the Consultant's Basic Services shall be \_\_\_\_\_.

#### **ARTICLE 5 COMPENSATION**

##### 5.1 Compensation for Basic Services

5.1.1 Compensation for Basic Services shall include all compensation due the Consultant from the County for all services under this Agreement except for any authorized Reimbursable Expenses which are defined herein. The maximum amount payable for Basic Services is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). Payment for Basic Services shall become due and payable in direct proportion to satisfactory services performed and work accomplished. Payments will be made as percentages of the whole as Project milestones as set out in Section 3.1.2 are achieved. *(For example, if there are 10 Project Tasks with Milestone Dates then Consultant may invoice for the first 10% of the whole upon County's acknowledgement of the satisfactory completion of Task one. Upon the County's acknowledgement that the second Task has been satisfactorily completed Consultant may invoice for the next 10% of the whole.)*

## **ARTICLE 6     **RESPONSIBILITIES OF THE COUNTY****

### 6.1     Cooperation and Coordination

6.1.1     The County has designated             to act as the County's representative with respect to the Project and shall have the authority to render decisions within guidelines established by the County Manager and the County Board of Commissioners and shall be available during working hours as often as may be reasonably required to render decisions and to furnish information.

6.1.2     The County shall be solely responsible for determining whether Consultant as satisfactorily completed Tasks associated with Milestone Dates. Upon County's written determination to Consultant that a Task has been satisfactorily completed by its accompanying Milestone Date Consultant may submit an invoice for payment. It is agreed that County shall not unreasonably withhold its determination of satisfactory completion of any Task. In the event, the amount of an invoice is disputed, County may withhold payment until the dispute is resolved by the parties. County may also withhold payment on an invoice until the satisfactory completion of a Task by Consultant.

## **ARTICLE 7     **INSURANCE****

### 7.1     General Requirements

7.1.1     The Consultant shall purchase and maintain and shall cause each of his Consultants to purchase and maintain, during the period of performance of this Agreement, insurance for protection from claims under workers' or workmen's compensation acts; Comprehensive General Liability Insurance covering claims arising out of or relating to bodily injury, including bodily injury, sickness, disease or death of any of the Consultant's employees or any other person and to real and personal property including loss of use resulting thereof; Comprehensive Automobile Liability Insurance, including hired and non-owned vehicles, if any, covering personal injury or death, and property damage; and Professional Liability Insurance, covering personal injury, bodily injury and property damage and claims arising out of or related to the performance under this Agreement by the Consultant or his agents, Consultants and employees.

7.1.2     The minimum insurance rating for any company insuring the Consultant shall be Best's A-. If the Consultant does not meet the insurance requirements, it is suggested that the County's Risk Manager be consulted prior to finalizing this Agreement.

### 7.2     Limits of Coverage

7.2.1     Minimum limits of insurance coverage shall be as follows:

INSURANCE DESCRIPTION	MINIMUM REQUIRED COVERAGE
• Worker's Compensation	Limits for Coverage A - Statutory State of N.C. Coverage B - Employers Liability \$500,000 each accident and policy limit and disease each employee
• Commercial General Liability	\$1,000,000 Each Occurrence; \$2,000,000 Aggregate.
• Automobile Liability	Combined Single Limit \$500,000
• Professional Liability	<b>NOTE: Insert coverage limits required by Risk Manager if applicable.</b>

7.2.2 All insurance policies (with the exception of Worker's Compensation and Professional Liability) required under this Agreement shall name the County as an additional insured party. Evidence of such insurance shall be furnished to the County, together with evidence that each policy provides that the County shall receive not less than thirty (30) days prior written notice of any cancellation, non-renewal or reduction of coverage.

### 7.3 Indemnity

7.3.1 The Consultant agrees to indemnify and hold harmless the County from all loss, liability, claims or expense, including attorney's fees, arising out of or related to the Project and arising from bodily injury including death or property damage to any person or persons caused in whole or in part by the negligence or misconduct of the Consultant except to the extent same are caused by the negligence or willful misconduct of the County. It is the intent of this provision to require the Consultant to indemnify the County to the fullest extent permitted under North Carolina law.

## **ARTICLE 8 AMENDMENTS TO THE AGREEMENT**

### 8.1 Changes in Basic Services

8.1.1 Changes in the Basic Services and entitlement to additional compensation or a change in duration of this Agreement shall be made by a written Amendment to this Agreement executed by the County and the Consultant. The Consultant shall proceed to perform the Services required by the Amendment only after receiving a fully executed Amendment from the County.

## **ARTICLE 9 TERMINATION**

### 9.1 Termination for Convenience of the County

9.1.1 This Agreement may be terminated without cause by the County and for its convenience upon seven (7) days prior written notice to the Consultant.

### 9.2 Other Termination

9.2.1 The Consultant may terminate this Agreement based upon the County's material breach of this Agreement; provided, the County has not taken all reasonable actions to remedy the breach. The Consultant shall give the County seven (7) days' prior written notice of its intent to terminate this Agreement for cause.

### 9.3 Compensation After Termination

9.3.1 In the event of termination, the Consultant shall be paid that portion of the fees and expenses that it has earned to the date of termination, less any costs or expenses incurred or anticipated to be incurred by the County due to errors or omissions of the Consultant.

9.3.2 Should this Agreement be terminated, the Consultant shall deliver to the County within seven (7) days, at no additional cost, all Deliverables including any electronic data or files relating to the Project.

### 9.4 Waiver

9.4.1 The payment of any sums by the County under this Agreement or the failure of the County to require compliance by the Consultant with any provisions of this Agreement or the waiver by the County of any breach of this Agreement shall not constitute a waiver of any claim for damages by the County for any breach of this Agreement or a waiver of any other required compliance with this Agreement.

## **ARTICLE 10 ADDITIONAL PROVISIONS**

### 10.1 Relationship of Parties

10.1.1 Consultant is an independent contractor of the County. Neither Consultant nor any employee of the Consultant shall be deemed an officer, employee or agent of the County. Consultant's personnel shall not be employees of, or have any contractual relationship with the County.

### 10.2 Limitation and Assignment

10.2.1 The County and the Consultant each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the County nor the Consultant shall assign or transfer its interest in this Agreement without the written consent of the other.

### 10.3 Governing Law

10.3.1 This Agreement and the duties, responsibilities, obligations and rights of respective parties hereunder shall be governed by the laws of the State of North Carolina.

### 10.4 Dispute Resolution

10.4.1 Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or non-performance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Orange County, North Carolina and it is agreed by the parties that no other court shall have jurisdiction or venue with respect to such

suits or actions. The Parties may agree to nonbinding mediation of any dispute prior to the bringing of such suit or action.

#### 10.5 Extent of Agreement

10.5.1 This Agreement, together with the Request for Proposals together with attachments distributed by the County and the Consultant's submitted Proposal, all of which constitute the Contract Documents, represents the entire and integrated agreement between the County and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. In the event of a conflict among the terms of the Contract Documents, the priority of documents shall be This Agreement, the County's Request for Proposals, attachments to the County's Request for Proposals, and the Consultant's Proposal. This Agreement may be amended only by written instrument signed by both parties. Modifications may be evidenced by facsimile signatures.

#### 10.6 Severability

10.6.1 If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be valid and binding upon the Parties.

#### 10.7 Ownership of Deliverables

10.7.1 All Deliverables, together with all supporting materials, source documentation, data collected, field notes, and working drafts, developed in the performance of this Agreement shall become the property of the County and may be used on any other project without additional compensation to the Consultant. The use of the Deliverables by the County or by any person or entity for any purpose other than the Project as set forth in this Agreement shall be at the full risk of the County.

#### 10.8 Non-Appropriation

10.8.1 Consultant acknowledges that County is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to County immediately upon written notice to Consultant of the unavailability and non-appropriation of public funds. It is expressly agreed that County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis.

In the event of a change in the County's statutory authority, mandate and/or mandated functions, by state and/or federal legislative or regulatory action, which adversely affects County's authority to continue its obligations under this Agreement, then this Agreement shall automatically terminate without penalty to County upon written notice to Consultant of such limitation or change in County's legal authority.

#### 10.9 Notices

10.9.1 Any notice required by this Agreement shall be in writing and delivered by certified or registered mail, return receipt requested to the following:

Orange County  
Attention:  
P.O. Box 8181  
Hillsborough, NC 27278

Consultant's Name & Address

IN WITNESS WHEREOF, the Parties, by and through their authorized agents, have hereunder set their hands and seal, all as of the day and year first above written.

COUNTY: Orange County

CONSULTANT:

\_\_\_\_\_  
Frank W. Clifton

\_\_\_\_\_  
Signature

This instrument has been approved as to technical content.

\_\_\_\_\_  
, Department Director

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

\_\_\_\_\_  
Office of the Finance Director

This instrument has been approved as to form and legal sufficiency.

\_\_\_\_\_  
Office of the County Attorney