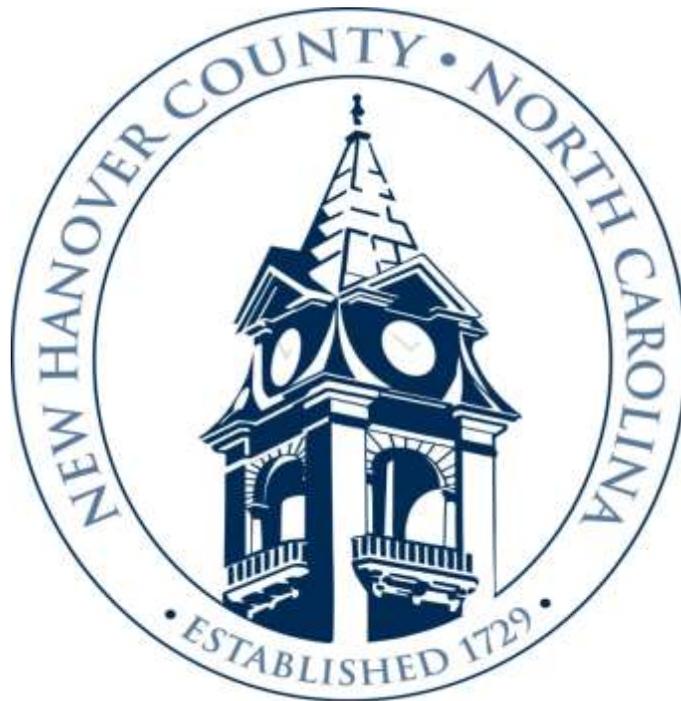


NEW HANOVER COUNTY
REQUEST FOR PROPOSALS
CAROLINA BEACH SHORELINE RISK REDUCTION PLAN
RFQ # 15-0298



ENGINEERING DEPARTMENT

COUNTY COMMISSIONERS

JONATHAN BARFIELD JR., CHAIRMAN
BETH DAWSON, VICE-CHAIRMAN
WOODY WHITE
SKIP WATKINS
ROB ZAPPLE

CHRIS COUDRIET, COUNTY MANAGER

NEW HANOVER COUNTY
REQUEST FOR PROPOSALS
CAROLINA BEACH SHORELINE RISK REDUCTION PLAN
RFQ # 15-0298

New Hanover County (NHC), in collaboration with Carolina Beach (CB), invites North Carolina (NC) licensed coastal engineers and scientists to submit qualifications with expertise in oceanfront shoreline risk reduction planning, economic and ecological evaluations. Statements of Qualifications may be submitted by email to lbedsole@nhcgov.com or may be sent by mail to Layton Bedsole, Shore Protection Coordinator, 230 Government Center Drive, Suite 195, Wilmington, North Carolina 28403.

The deadline for receipt of proposal is **5:00 P.M. EST, May 1, 2015**.

Submitted proposals are not subject to public inspection until a contract is awarded and executed. Proposals will be evaluated and firms may be contacted for interviews to be conducted by phone or in person.

Instructions for submitting proposals and complete requirements and information may be obtained by visiting the County's website at <http://www.nhcgov.com/business-nhc/bids>.

New Hanover County reserves the right to accept or reject any or all Statements of Qualifications and to make the award which will be most advantageous to the County.

Lena L. Butler, Purchasing Supervisor
New Hanover County
(910) 798-7190

Published: March 26, 2015

Section 2 Instructions

2.1 Schedule

Advertisement	<i>March 26, 2015</i>
Deadline for Questions (Questions may be submitted from the release date until the deadline for questions)	<i>April 10, 2015 by 5:00 PM</i>
Deadline for Receipt of Statements of Qualifications	<i>May 1, 2015 by 5:00 PM</i> New Hanover County Finance Department 230 Government Center Drive, Suite 165 Wilmington, NC 28403 or email lbedsole@nhcgov.com
Evaluate Submittals	<i>May 4-15, 2015</i>
Conduct Interviews	<i>May 18-22- 2015</i>
Award Contract	<i>Week of May 26-29, 2015</i>

2.2 Statement of Qualifications Instructions

2.2.1 Email Qualification Statements to lbedsole@nhcgov.com by the Deadline for Receipt of Statements of Qualifications detailed in the Schedule in 2.1 above. **“RFQ-CAROLINA BEACH SHORELINE RISK REDUCTIONL PLAN” MUST be in the subject line of the email.** Statements may also be submitted in a sealed envelope properly marked **“RFQ-CAROLINA BEACH SHORELINE RISK REDUCTIONL PLAN”** and addressed to the County at the following address:

New Hanover County Manager’s Office
Attn: Layton Bedsole
230 Government Center Drive, Suite 195
Wilmington, NC 28403

2.2.2 Qualification Statements received after the time and date for closing will not be considered.

2.2.3 Submitted Statements of Qualifications are not subject to public inspection until a contract is awarded and executed.

2.2.4 After the issue date, all communications between the County and prospective Respondents regarding this RFQ request shall be in writing. Any inquires, requests for interpretation, technical questions, clarification, or additional

information shall be directed to **Layton Bedsole, Shore Protection Coordinator** by emailing lbedsole@nhcgov.com. All questions concerning this RFQ shall reference the section number and page. Questions and responses will be compiled and shared with all interested Respondents known to the County. **All questions shall be received no later than the time detailed in Schedule 2.1.**

Respondents may not have communications, verbal or otherwise, concerning this RFP with any personnel or boards from New Hanover County, other than the person listed in this section. If any vendor attempts any unauthorized communication, the proposal will be rejected.

All Respondents who intend to submit a Statement of Qualification on this project should send an email to lbedsole@nhcgov.com including pertinent contact information. This will ensure that you receive all addenda issued for this RFQ; if applicable.

- 2.2.5** The deadline for receipt of all Qualification Statements is **May 1, 2015 at 5:00 PM, EST**. Any Statements received after the scheduled closing time will not be accepted.
- 2.2.6** New Hanover County reserves the right to allow or disallow minor deviations or technicalities should the County deem it to be to the best interest of the County. New Hanover County shall be the sole judge of what is to be considered a minor deviation or technicality.
- 2.2.7** Qualification Statements will be evaluated and oral interviews may be requested as part of the evaluation process. If interviews will be conducted, the County will contact Respondents by email to make arrangements.
- 2.2.8** Respondents shall maintain insurance from companies licensed to write business in North Carolina, with an A.M. Best rating of A or higher, and acceptable to New Hanover County, of the kinds and minimum amounts specified below: **(INCLUDE PROOF OF INSURANCE WITH QUALIFICATION STATEMENT.)**

Certificates and Notice of Cancellation. Before commencing any work or services, Respondent shall maintain insurance in Respondent's name and maintain all insurance policies for the duration of the Contract of the types and in the amounts listed in the Contract. 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 Respondent, its agents, representatives, employees, or subcontractors, whether such operations by itself or anyone directly or indirectly employed by it.

Certificates shall indicate the type, amount, class of operations covered, effective date and expiration date of all policies, and shall contain the following statement:

"The insurance covered by this certificate will not be canceled or materially altered, except after thirty (30) days written notice has been received by County".

The Certificate of Insurance, naming New Hanover County as an additional insured, shall be further evidenced by an actual endorsement furnished to the County from the insurer within thirty (30) days of the signing of the contract between the Vendor and the County.

Workers Compensation and Employers Liability Insurance. Respondent shall maintain Worker' 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 \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 policy limit.

Commercial General Liability. Respondent shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability with a total limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. If such CGL insurance contains a general aggregate limit, it shall apply separately to this work or services, or the general aggregate shall be twice the required limit.

Automobile Liability Insurance. Respondent shall maintain Business or Personal Auto and; in necessary, Commercial Liability insurance with a limit of not less than \$1,000,000 each accident. Personal auto insurance may be accepted in lieu of Business Auto Insurance. Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

Professional Liability. Respondent shall maintain professional liability or errors and omissions liability insurance appropriate to his/her profession. Coverage as required in this paragraph shall apply to liability for a professional error, act, or omission arising out of the scope of services as defined in this RFQ. Coverage shall be written subject to limits of not less than \$ 1,000,000 per loss.

- 2.2.9 All costs, including travel and expenses, incurred in the preparation of this Qualification Statement will be borne solely by the proposing Respondent.
- 2.2.10 No agreements with any selected Respondent shall be binding until a contract is signed and executed by the authorized County official and authorized representatives of the vendor.
- 2.2.11 It is the policy of New Hanover County that minority businesses, as defined by NCGS 143-128 have maximum opportunity to participate in the performance of contracts and subcontracts funded in whole or in part with public funds. The County has established a verifiable goal of ten percent (10%) participation in the total value of the work.

Section 3 Background

Carolina Beach (CB) located in southeastern New Hanover County (NHC) is the first authorized coastal storm damage reduction (CSDR) project to reach the USACE 50-year milestone. NHC and CB are proposing to provide the non-federal elements meeting the spirit and intent of Section 1037 in the 2014 Water Resources & Reform Development Act (WRRDA) for evaluating a 15-year extension of the CB CSDR authorization. The submitted credentials will demonstrate the proponent's ability to successfully prepare "a plan for reducing risk to people and property during the life of the project" as called out in Section 1037 (c) (1).

The selected firm/team must also be capable of completing a Level Two Economic Update as described in DIRECTOR OF CIVIL WORKS' POLICY MEMORANDUM (CWPM) 12-001 and the supplemental METHODOLOGY FOR UPDATING BENEFIT-TO-COST RATIOS.

The intended and primary deliverable resulting from this RFQ is the assimilation, preparation and documentation of site specific data meeting the non-federal Section 1037 (c) (1) mandate.

Section 4: Project Description

As provided in Section 1037 HURRICANE AND STORM DAMAGE REDUCTION paragraphs (a) GENERAL and (b) REVIEW from the WRRDA 2014, NHC has requested the USACE to “carry out a study to determine the feasibility of extending the period of nourishment described in subsection (a) for a period not to exceed 15 additional years....”

The CB CSDR project begins just north of the Carolina Beach Fishing Pier and extends south 14,000 linear feet to approximately Tennessee Avenue. The cross-sectional design template begins with a 25-foot wide dune cresting at 12.5 feet adjoined water ward by a 50-foot wide berm at elevation 9.5 feet. The project also consists of a 2,075-foot shore parallel rock revetment located at the project’s northern limits. The revetment’s cross-sectional design includes the rock revetment at elevation 9.5 feet fronted by a 130-foot berm at an elevation of 5.5 feet.

The CB CSDR project maintenance events have been routinely implemented on a three-year cycle using primarily a self-recharging borrow site within the Carolina Beach Inlet throat. The sand within the inlet borrow site meets the NC Sediment Criteria regulated by the NC Division of Coastal Management (NCDCM) and portends the volume necessary for continuing the project’s three-year maintenance cycle over an additional 15 years.

Field and file research will be required to produce the required Appendix “Plan for Continued Risk Reduction to People and Property” as required by Section 1037 (c) (1) of WRRDA 2014. This appendix would include non-federal efforts implemented between maintenance events that facilitate the success and maximize temporal expectancy of the CB CSDR project. Within this appendix, sea level rise information will be included as well as elements of NHC’s annual shoreline mapping program.

Examples of data that may be required in assessing potential risks to people and property may include but will not be limited to:

- update listing of public and private structures protected by the CSDR project;
- confirmation of existing public and emergency accesses;
- corroboration of the USACE public parking criteria;
- assessment of potential utility effects;
- update zoning enactments or ordinance changes;
- corroboration of no hazardous, toxic or radioactive waste known to exist within the CSDR template;
- corroboration of lands, easements, rights-of-way, relocations and dredged material placement areas;
- shoreline management efforts
- dune management efforts
- shoreline education
- emergency response/evacuation plans and procedures

Reformulation of the CB CSDR project is not anticipated: there are no design or template changes requested; the existing borrow source suggests continued sufficiency; historical maintenance cycles remain adequate; cost sharing percentages are supported

by the existing Project Partnership Agreement (PPA) and no detrimental ecological effects have been documented. There are no operational and maintenance changes proposed as demonstrated by the project's 50-year success in accomplishing the USACE's infrastructure protection mission. All USACE engineering plans, drawings, associated geotechnical data and National Environmental Policy Act (NEPA) documentation will be fully utilized in the ultimate planning, preparation, submittal and acquisition of a USACE Chief of Engineers' Report.

All data, reports and applications will be coordinated through NHC inclusive of all necessary tables, graphs, photos, narratives and appendices needed to ascertain project deliverables. The gathered and generated data may be requested by NHC in multiple formats allowing multiple program compatibility. Intermediate and final deliverables (all inclusive) will be submitted in hard copy and on external media (CD, DVD and/or Flash Drives) in numbers sufficing agency distributions.

Section 5: Deliverables

1. Primary/Intended Deliverable

Following selection of the successful team, a turn-key scope of work including tasks, man-hours, fees and a schedule for the non-federal stakeholder's Plan for Continued Risk Reduction to People and Property per Section 1037 (c) (1) of WRRDA 2014 will be developed and approved by New Hanover County's management and Board of Commissioners. **The primary deliverable would be completed and accepted by NHC by February 28, 2016.**

2. Potential Deliverables

- a. A turn-key scope of work including tasks, man-hours, fees and a schedule for a Level Two Economic Update through the development of a benefit/cost analysis.
- b. A turn-key scope of work including tasks, man-hours, fees and a schedule for Level Two Economic Update and Validation Report through SAW, SAD and HQ submittal and acceptance.

Section 6: Minimum Qualifications and Experience

At a minimum, the company/team's qualifications and experience shall include the following attributes:

1. at least 10 years of coastal shoreline engineering, risk, ecological and economic assessment experience;
2. knowledge of the USACE's risk and economic formats, contents and deliverables;
3. a thorough knowledge is required of the USACE's vertical approval process and
4. excellent oral and written communication skills with successful experiences working with multi-disciplinary teams.

Section 7: Statement of Qualifications Requirements and Format

Unless the statement of qualification clearly states otherwise, NHC will assume that all conditions and requirements listed in this RFQ will be met by the qualification package. The proponent shall clearly list every specific condition or requirement that will not be met by the qualification package and either declare an exception or describe how the proponent will meet the intent of the RFQ by other means.

- A. The qualification package shall include the following items:
1. a statement of qualification and experience;
 2. identification of the staff to be assigned to this project;
 3. resumes of all key staff to be employed on the project;
 4. a Project Manager having overall project management authority;
 5. an outline of your team's general approach to undertaking this project demonstrating an understanding of the project goals and a capability to successfully complete the Risk Reduction Plan;
 6. references for projects similar in nature and scope completed within the last five (5) years;
 7. for each referenced project, identify the project name including contact information and describe the scope of work undertaken by your company/team;
 8. technical information on the process and protocols proposed to be used and an hourly charge-out rates for key staff to be assigned to the project as applied to any extra work potentially authorized by NHC.
- B. The qualification package shall be signed by an authorized officer whose name and title shall be printed below the signature along with the date of the RFQ's submittal.

Section 8: Evaluation and Award

- a. NHC will consider and evaluate each package by the following elements:
 - experience and qualifications;
 - submittal package quality;
 - references submitted;
 - interview aptitude and
 - any other applicable factors.
 - Proponent's approach (provide a narrative, outline and/or graphics).
 - Proponent's understanding of the projects distinctions (provide a narrative).
 - Milestone tasks and delivery dates (provide a narrative).
 - Portended timeline through Risk Reduction Plan finalization (provide a schedule).
- b. NHC reserves the right to negotiate and accept any forthcoming qualification statements, to reject any or all forthcoming qualification statements, and to offer to accept any forthcoming qualification statement subject to the deletion of any item or group of items of work from a scope of work. However, in such a case, a scope of work and fees proposed by NHC are subject to the agreement of the proponent.
- c. New Hanover County anticipates it will select firms for in-person interviews; however, at its discretion and after review of the submitted statements, New Hanover County may dispense with interviews and select a firm to perform the work.
- d. The proponent shall be prepared to attend an interview as part of NHC's evaluation of the packages submitted. NHC may request a presentation identifying company/team qualifications, key staff, relevant experience and the suggested approach to undertaking this project. In addition, the proponent shall be prepared to provide a sample of documentation created for previous similar projects.
- e. The proponent shall bear all costs associated with preparing for and attending such an interview and presentation. Failure to attend when requested will disqualify the company/team from selection consideration.
- f. Once NHC has selected a firm, a not to exceed lump sum fee supported by a task and man-hour breakdown with projected schedule will be negotiated. Prioritized subtasks addressing significant project milestones will also be developed during the subsequent scope and fee negotiations.
- g. Upon successful negotiations with the firm, NHC will enter into a formal contract for the proposed services.

NORTH CAROLINA

PROFESSIONAL SERVICES AGREEMENT

NEW HANOVER COUNTY

THIS AGREEMENT made and entered into this _____ day of _____ 2015 by and between **NEW HANOVER COUNTY** a Political Subdivision of the State of North Carolina, hereto referred to "County"; and _____, a _____ hereinafter referred to as "Professional."

WITNESSETH:

That Professional, for the consideration hereinafter fully set out, hereby agrees with County as follows:

1. **Scope of Service.** County shall hire Professional to provide oceanfront shoreline risk reduction planning, economic and ecological evaluations in collaboration with County and Carolina Beach as more specifically described in the RFQ, attached hereto as Exhibit A and incorporated herein by reference.

2. **Payment.** County agrees to pay Contractor, for the full and faithful performance of this Contract, an amount not to exceed _____ (\$_____) dollars, upon the full performance of the contracted services to County's satisfaction.

3. **Time of Performance.** Professional shall begin work or services on Notice to Proceed and all work or services shall be completed by midnight on _____, 20____.

4. **Extra Work or Services.** County and Professional shall negotiate and agree upon the value of any extra work or services prior to the issuance of a County Change Order or Renewal/Amendment (CRA) form covering said extra work or services. Such Change Order or CRA shall set forth the corresponding adjustment, if any, to the Contract Price and Contract Time.

5. **Indemnity.** Professional shall indemnify and hold County, its officers, officials, agents, and employees, harmless against any and all claims, demands, causes of action, or other liability, including attorney fees, on account of Contract or personal injuries or death or on account of property damages arising out of or relating to the work or services to be performed by Professional hereunder, resulting from the negligence of or the willful act or omission of Professional, its agents, employees and subcontractors.

6. **Independent Contractor.** The parties hereto mutually agree that Professional is an independent Contractor and not an agent of County, and as such Professional shall not be entitled to any County employment benefits, such as, but not limited to, vacation, sick leave, insurance, work or worker's compensation, or pension and retirement benefits.

7. **Minimum Scope and Limits of Insurance**

7.1 **Commercial General Liability**

7.1.1 Professional shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability insurance with a total limit of not less than \$1,000,000 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.

7.1.2 CGL insurance shall be written on Insurance Services Office (ISO) "occurrence" form CG 00 01 covering CGL 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.

7.1.3 County, its officers, officials, agents, and employees are to be covered as additional insureds under the CGL by endorsement CG 20 10 and CG 20 37 or an endorsement providing equivalent coverage as respects to liability arising out of activities performed by or on behalf of Professional; products and completed operations of Professional; premises owned, leased or used by Professional; and under the commercial umbrella, if any. The coverage shall contain no special

limitations on the scope of protection afforded to County, its officers, officials, agents, and employees

7.1.4 Professional's CGL insurance shall be primary as respects County, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by County, its officers, officials, agents, and employees shall be excess of and not contribute with Professional's insurance.

7.2 Worker's Compensation and Employer's Liability

7.2.1 Professional shall maintain Work or Worker's Compensation as required by the General Statutes of the State of North Carolina and Employer's Liability Insurance.

7.2.2 The Employer's Liability, and if necessary, Commercial Umbrella Liability insurance shall not be less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 policy limit.

7.2.3 The insurer shall agree to waive all rights of subrogation against County, its officers, officials, agents, and employees for losses arising from work or services performed by Professional for County.

7.3 Business Auto Liability

7.3.1 Professional shall maintain Business or Personal Auto Liability and, if necessary, Commercial Umbrella Liability insurance with a limit of not less than \$1,000,000 each accident.

7.3.2 Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos.

7.3.3 Business 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.

7.3.4 Professional's Business Auto Liability insurance shall be primary as respects County, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by County, its officers, officials, agents, and employees shall be excess of and not contribute with Professional's insurance.

7.4 Professional Liability Insurance

7.4.1 Professional shall maintain in force for the duration of this Contract professional liability or errors and omissions liability insurance appropriate to Professional's profession. Coverage as required in this paragraph shall apply to liability for a professional error, act, or omission arising out of the scope of Professional's services as defined in this Contract. Coverage shall be written subject to limits of not less than \$1,000,000 per loss.

7.4.2 If coverage in this Contract is on a claims-made basis, Professional 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 or services under the Contract is complete.

7.5 Deductibles and Self-Insured Retentions

7.5.1 Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, agents, and employees; or Professional shall procure a bond guaranteeing payment of deductibles or self-insured retentions.

7.5.2 Professional shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not County is an insured under the policy.

7.6 Miscellaneous Insurance Provisions

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

7.6.2 Any failure to comply with reporting provisions of the policies listed in this Contract shall not affect coverage provided to County its officers, officials, agents, and employees.

7.6.3 Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days prior written notice has been given to County, 230 Government Center Drive #125, Wilmington, NC 28403.

7.6.4 If Professional'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.

7.7 Acceptability of Insurers

7.7.1 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 County has granted specific approval.

7.8 Evidence of Insurance

7.8.1 Professional shall furnish County with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements prior to commencing the work or services, and thereafter upon renewal or replacement of each certified coverage until all operations under this Contract are deemed complete.

7.8.2 Evidence of additional insured status shall be noted on the certificate of insurance as per requirements in this Contract.

7.8.3 With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to County 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.

7.9 Sub-Contractors. Professional shall include all sub-contractors as insureds under its policies or shall furnish separate certificates for each sub-contractor. All coverage for sub-contractors shall be subject to all of the requirements stated herein. CGL coverage shall include independent contractors' coverage, and Professional shall be responsible for assuring that all sub-contractors are properly insured.

7.10 Conditions

7.10.1 The insurance required for this Contract must be on forms acceptable to County.

7.10.2 Where circumstances warrant, County may, at its discretion subject to acceptance by the Risk Management and Finance Department accept letters of credit or custodial accounts in lieu of specific insurance requirements.

7.10.3 Professional shall provide that the insurance contributing to satisfaction of insurance requirements in this Contract shall not be canceled, terminated, or modified by Professional without prior written approval of County.

7.10.4 Professional shall promptly notify the New Hanover Engineering Department and the Risk Management Office at (910) 798-7497 of any accidents arising in the course of operations under the Contract causing bodily injury or property damage.

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

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

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

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

7.10.9 Professional or its agent may apply to County for approval of higher deductibles based on financial capacity and quality of the carrier affording coverage.

7.10.10 County shall have the right, but not the obligation of prohibiting Professional or any sub-contractor from entering the project site or withhold payment until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by County.

8. **Standard Of Care.** Professional shall exercise reasonable care and skill as might be expected from similarly situated professionals performing work or services of the kind required under this Contract at the time and the place where the services are rendered. The staff of and subcontracted professionals engaged by Professional shall possess the experience, knowledge and character necessary to qualify them to perform the particular duties to which they are assigned.

9. **Default and Termination.** If Professional fails to prosecute the work or services with such diligence as will insure its completion within the Contract time, or if Professional breaches any one of the terms and conditions contained in this Contract and fails to cure said breach within five (5) days of County mailing Notice of Default, County may terminate this Contract at the expiration of the fifth day after mailing such Notice of Default.

10. **Entire Contract.** This Contract constitutes the understanding of the parties.

11. **Termination for Convenience.** County may terminate this Contract for convenience at any time and without cause upon thirty (30) days prior written notice. Upon receipt of notice, Professional shall immediately discontinue the work or services and, If applicable, placing of orders for materials, facilities, and supplies in connection with the performance of this Contract.

12. **Non-appropriation.** All funds for payment by County under this Contract are subject to the availability of any annual appropriation for this purpose by the Board of Commissioners. In the event of non-appropriation of funds by the Board of Commissioners for the services provided under the Contract, County will terminate the Contract, without termination charge or liability, on the last day of the then-current fiscal year or when the appropriation made for then-current year for the services/items covered by this Contract is spent, whichever occurs first. If at any time funds are not appropriated for the continuance of this Contract, cancellation shall be accepted by Professional upon three (3) days prior written notice, but failure to give such notice shall be of no effect and County shall not be obligated under this Contract beyond the date of termination.

13. **Subcontracts.** The Professional shall utilize no subcontractors for carrying out the services to be performed under this Contract without the written approval of the County.

14. **Entire Contract.** This Contract constitutes the entire understanding of the parties.

15. **Binding Effect.** This Contract shall be binding upon the parties hereto, and their heirs, successors, executors, administrators and assigns.

16. **Further Actions.** The parties will make and execute all further instruments and documents required to carry out the purposes and intent of this Contract.

17. **Severability.** If any provision of this Contract is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Contract shall remain in full force and effect.

18. **Inclusive Terms.** Use of the masculine herein shall include the feminine and neuter, and the singular shall include the plural.

19. **Governing Law.** All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina.

20. **Notices.** All notices required hereunder to be sent to either party shall be sent to the following designated addresses, or to such other address or addresses as may hereafter be designated by either party by mailing of written notice of such change of address, by Certified Mail, Return Receipt Requested:

To County:

New Hanover County

To Professional:

21. **Assignability.** The parties hereto agree that this Contract is not transferable and shall not be assigned by either party without the written consent of the other party to this Contract.

22. **Contract Under Seal.** The parties hereto expressly agree to create a Contract under seal.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals, the day and year first above written and by authority duly given.

NEW HANOVER COUNTY

[SEAL]

County Manager

ATTEST:

Clerk to the Board

PROFESSIONAL

(SEAL)

Title _____

ATTEST:

Secretary

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

Approved as to form:

County Finance Director

County Attorney

NORTH CAROLINA

NEW HANOVER COUNTY

I, _____, a Notary Public of the State and County aforesaid, certify that Teresa P. Elmore acknowledged that she is Clerk to the Board of Commissioners of New Hanover County, and that by authority duly given and as the act of the Board, the foregoing instrument was signed in its name by its _____ Manager, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal, this _____ day of _____, 2015.

Notary Public

My commission expires: _____

NORTH CAROLINA

NEW HANOVER COUNTY

I, _____, a Notary Public of the State and County aforesaid, certify that _____, came before me this day and acknowledged that (s)he is Secretary of _____ a _____ and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name as its President, sealed with its corporate seal and attested by him/herself as its Secretary.

WITNESS my hand and official seal, this _____ day of _____, 2015.

Notary Public

My commission expires: _____