

NC STATE UNIVERSITY

Raleigh, North Carolina Request for Proposals (RFP)

#63-KGS1088552 - Pond Bulwark Retrofit (Wilmington, NC)

For internal administrative processing, including tabulation of proposals for posting to Bonfire and the State of North Carolina Electronic Vendor Portal (eVP), please provide your company's Federal Employer Identification Number or alternate identification number (e.g. Social Security Number). We HIGHLY recommend you register in order to see bid tabulations and award results. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. This page will be removed and shredded, or otherwise kept confidential, before the procurement file is available for public inspection.

**THIS PAGE IS TO BE COMPLETED AND INCLUDED WITH
YOUR PROPOSAL. FAILURE TO DO SO MAY SUBJECT
YOUR PROPOSAL TO REJECTION.**

Federal ID Number or Social Security Number:	
SUPPLIER NAME:	
DATE:	

NC STATE UNIVERSITY

REQUEST FOR PROPOSALS (RFP)

RFP # 63-KGS1088552

TITLE: Pond Bulwark Retrofit (Wilmington, NC)

USING DEPARTMENT: College of Agriculture and Life Sciences

ISSUE DATE: April 15, 2025

DUE DATE: **2:00 p.m., Friday, May 16, 2025**

ISSUING AGENCY: NC State University
Procurement Services Department
Campus Box 7212
Raleigh, NC 27695

Proposals subject to the conditions made a part hereof will be accepted until **2:00 p.m., Friday, May 16, 2025** for furnishing services described herein.

Proposals must be submitted electronically at:

<https://ncsu.bonfirehub.com/opportunities/182539>

Upload scanned pages from this RFP document included with your proposal response where indicated on the Bonfire website.

Direct all inquiries (via email) concerning this RFP to:

Kristen Shelton, CPPB
NC State University
Procurement Services
Department
Email: kgshelto@ncsu.edu

NOTE: Questions concerning the RFP requirements must be submitted in writing via email to kgshelto@ncsu.edu, **Subject Line: RFP #63-KGS1088552 - Questions**, no later than **5:00 p.m on Wednesday, April 30, 2025**. Questions will be answered in the form of an addendum to this RFP. No other contact with university representatives regarding this RFP is allowed during the proposal process. Attempts to obtain information directly from university personnel, or by any other means, may subject your proposal response to rejection. Please use the following template to submit your questions:

Reference	Supplier Question
RFP Section, Page Number	Supplier question ...?
	Insert rows as needed

1. INTRODUCTION: PURPOSE AND BACKGROUND

NC State Biological and Agricultural Engineering seeks proposals from qualified contractors to build a free-standing sheet pile bulwark within an existing wet pond located at [350 College Rd. Wilmington, NC 28403](#). The wet pond is within a commercial parking lot, and the retrofit aims to improve the water quality performance of the pond by lengthening the hydraulic retention time and minimizing short-circuiting within the pond.

2. CONTRACT PERIOD

The project shall be completed, successfully inspected and accepted by the University's Project Manager, and invoice submitted NO LATER THAN six (6) weeks from date of award (estimated award date May 2025). Completion date shall be adjusted for weather delays only with approval by the University's Project Manager.

The proposal response must include a timeline demonstrating the proposing Contractor's plans to complete the project within six (6) weeks from date of award. Construction mobilization and project shall begin within two (2) weeks from date of award. No extensions are available for this contract.

3. SCOPE OF WORK

3.1 General

University Centre is a 30 acre commercial parcel within the Bradley Creek watershed. The site's stormwater control measure has been identified for a retrofit. The awarded Contractor will install a 90' sheet pile bulwark within the existing wet pond on site. Currently, the inlet of the pond discharges directly to the outlet. This bulwark must extend between these two points, preventing short circuiting and increasing the hydraulic residence time of the influent water. The bulwark must be free standing and comprised of a vinyl sheet pile, marine-grade wooden wale, and sheet pile cap (marine grade lumber or vinyl). No earthwork will be required, nor will the footprint of the pond change.

This document must be used in conjunction with the attached construction plans. The University's BAE Project Engineer or Project Manager will be available at all times during the construction time window to answer any questions and to inspect all aspects of the project.

The Contractor is responsible for full clean up and proper off-site disposal of any construction debris and residual material. All trash must be cleaned up daily. Exposed earth must be stabilized with seeding (temporary with straw and permanent) and mulching on site before demobilization and final acceptance by the University.

All bids must include (1) bulwark material specifications and (2) total costs (e.g., materials, delivery, installation, etc.).

3.2 Construction Notes

General

The protection of any existing features, asphalt pavements and utilities is the responsibility of the contractor. Any damage caused during the construction process must be corrected and paid for by the Contractor prior to final acceptance by the University. The contractor must have all utilities marked for protection prior to construction. The contractor shall work with the University Project Engineer should field adjustments be necessary. The contractor must have the equipment and personnel onsite to confirm elevations during construction. The contractor shall seed (temporary with straw and permanent) and mulch any disturbed areas. The contractor must remove all trash and residual debris from the site and return it to pre- construction aesthetics. The contractor must provide a 1-year warranty on the functionality of the bulwark. Any issues resulting in operational failure of the system must be repaired or replaced in a timely manner.

Clean Up

The contractor is responsible for full clean up and proper offsite disposal of any construction debris

and residual material surrounding the construction site. All trash must be cleaned up daily. Exposed earth shall be stabilized with seeding (temporary and permanent) and mulching onsite before demobilization and final acceptance by the University.

You must download the site design plans directly from Bonfire or select this link, [KGS1088552_Appendix A_Site Design Plans](#)

Note: This area is open to the public and contractors may explore the area if needed on their own. The University will not be responsible for any expenses associated with visiting the site.

4. SUPPLIER QUALIFICATION/EXPERIENCE REQUIREMENTS

4.1 General

Proposing contractors must introduce us to your organization by demonstrating three (3) years of in-depth experience providing three (3) projects similar in nature and scope to that described herein. Contractor must provide documentation of those representative projects they have previously completed.

4.2 References

It is the proposing Contractors' responsibility to provide valid reference information and the University reserves the right to use reference check responses in its evaluation of proposals. Three (3) references are required, similar in nature and scope. See the page below. Only top scoring bidders may receive reference checks and negative references may eliminate bidders from consideration for award.

5. SUPPLIER PROPOSAL RESPONSE

The following information is required in response to this RFP. Failure to adequately provide specific information that can be effectively evaluated by NC State may disqualify your proposal from consideration.

At minimum, the proposal response package must include the following and must be uploaded in the corresponding locations on Bonfire:

1. Completed NC State University RFP
 - Cover Page with Firm Name and Tax ID#
 - 4.2 Reference page
 - Signed Execution of Proposal page
2. A **detailed technical** proposal addressing **Sections 3 and 4**. Describe in your proposal response the approach, processes and steps you will follow to perform and complete the tasks in the Scope of Work, Section 3. Include a complete list of equipment you will use to perform all tasks in the Scope of Work and any additional tasks that you recommend for achieving successful outcomes within your timeline. Note any requirements you have, and any assumptions being made which impact your proposed approach or the time required to complete the work. Make sure to introduce us to your organization and include documentation for projects per Section 4.
3. Section 7 Cost Proposal Spreadsheet
4. Evidence of NC General Contractor's license
5. Certificate of Insurance meeting current coverage requirements (see Terms and Conditions, Item #19 for required coverage).

2721 Sullivan Drive
Raleigh, NC 27695

6. Any applicable RFP addenda subsequent to this RFP that is required for return by statement on the addendum.

Incomplete proposals will not be considered for award.

6. CRITERIA FOR EVALUATION AND AWARD

All proposals will be evaluated according to the following:

SCREENING CRITERIA: Complete proposal response (as outlined in Section 5). All items requested are included in the response package and submitted as instructed. All files are transmitted to the Bonfire site without password or other lockdown requirements and proof of insurance demonstrates existing coverage meeting required minimum limits. Incomplete responses will not be considered further.

Proposals meeting the screening criteria will then be further evaluated by the following weighted criteria in order to select the Contractor providing the best overall value to the department requesting these services:

20% Apparent Ability - Section 3

The proposal provides enough information to determine that the proposing contractor has sufficient resources to provide the specified service. Items to be evaluated: proposed equipment list clearly shows that the proposing Contractor has the resources to complete this work, narrative submitted in response to the scope of work.

40% Qualifications/Experience - Section 4

The proposal demonstrates relevant qualifications and experience similar in nature and scope. Items to be evaluated include documentation introducing us to your organization, evidence of past work; representative projects (3) and references (3) similar in nature and scope.

40% Cost Proposal - Section 7

Cost scores are calculated by dividing each score into the lowest total cost proposal/proposed solution total cost x 40.

Lowest cost proposal receives all of the 40 available points. The remaining proposals scores are calculated by dividing their cost into the low cost and multiplying that result by 0.40.

EXAMPLE

Supplier A's proposed total cost = 150,000

Supplier B's proposed total cost = \$200,000

Supplier C's proposed total cost = **\$100,000 (lowest total cost proposed)**

Cost scores would be calculated as follows:

Supplier C: (**100,000**/100,000) x 40 = 40 points

Supplier B: (**100,000**/200,000) x 40 = 20 points

Supplier A: (**100,000**/150,000) x 40 = 26.67 points

7. COST PROPOSAL

The cost proposal must include the cost to provide all manpower, mobilization of equipment, travel, expenses, equipment, etc. to fulfill the requirements of Section 3 Scope of Work. **You must download and complete the excel file listed under supporting documents on Bonfire. These are required documents.** Each task should be detailed in your technical proposal and the costs will be indicated in this spreadsheet. Carry the project total below and upload the completed spreadsheet.

Project Total: \$ _____

Contractor Name: _____

4.2 REFERENCES

OFFERORS MUST PROVIDE THREE (3) REFERENCES FOR CLIENTS WHO HAVE PERFORMED SIMILAR WORK IN THE PAST THREE (3) YEARS.

#1	Company Name:	
	Company Full Address:	
	Contact Name:	
	Email Address:	
	Phone Number:	

#2	Company Name:	
	Company Full Address:	
	Contact Name:	
	Email Address:	
	Phone Number:	

#3	Company Name:	
	Company Full Address:	
	Contact Name:	
	Email Address:	
	Phone Number:	

THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL.

EXECUTION OF PROPOSAL**RFP #63-KGS1088552**

The potential Contractor certifies the following by placing an "X" in all blank spaces:

- ☐ That this proposal was signed by an authorized representative of the firm.
- ☐ That the potential Contractor has determined the cost and availability of all materials and supplies associated with performing the services outlined herein.
- ☐ That all labor costs associated with this project have been determined, including all direct and indirect costs.
- ☒ ~~That the potential Contractor has attended the pre-proposal conference and is aware of the prevailing conditions associated with performing these services.~~
- ☐ That the potential Contractor agrees to the conditions as set forth in this Request for Proposals with no exceptions.
- ☐ That the potential Contractor carries the appropriate insurance and will perform background checks on employees as required herein. See items 19 & 31 of General Contract Terms and Conditions attached.
- ☐ That no employee or agent has offered, and no State employee has accepted, any gift or gratuity in connection this contract, in violation of N.C.G.S. § 133-32; and
- ☐ That it, and each of its sub-contractors under this contract, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system, as required by G.S. §143-48.5.
- ☐ That this proposal is submitted competitively and without collusion. That none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible supplier as set forth in G.S. 143-59.1. False certification is a Class I Felony.

Therefore, in compliance with the foregoing Request for Proposal, and subject to all terms and conditions thereof, the undersigned offers and agrees, if this proposal is accepted within forty-five (45) days from the date of the opening, to furnish the services for the prices quoted during any resulting contract period.

Contractor Name:			
Street Address:			
City, State & Zip Code:			
Representative's Name:			
Representative's Title:			
Representative's Email:		Phone#:	
Representative's Signature:		Date:	

THIS PAGE MUST BE COMPLETED AND INCLUDED IN YOUR PROPOSAL RESPONSE

GENERAL INFORMATION ON SUBMITTING PROPOSALS

1. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation. Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.
2. **PROPOSAL SUBMITTAL:** NC State University uses a third-party eProcurement strategic sourcing provider, Bonfire, for accepting and evaluating proposals digitally. All proposals must be received by the issuing agency not later than the date and time listed on the cover sheet of this proposal. Proposals shall be uploaded to:

<https://ncsu.bonfirehub.com/opportunities/182539>

Request for Proposals (RFP) documents are advertised on the State of North Carolina Electronic Vendor Portal System (eVP) and [Bonfire](#). An addendum to this RFP may be issued. If required, any subsequent addenda must be signed and submitted with the proposal upload. It is the **vendor's responsibility** to verify that all applicable addenda are submitted as required.

For support or technical questions related to your submission, please contact Bonfire at support.bonfire@eunasolutions.com or visit their help forum at <https://vendorsupport.gobonfire.com/hc/en-us>

3. **BONFIRE REQUESTED DOCUMENTATION & INFORMATION:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired. In an effort to support the sustainability efforts of the State of North Carolina we are receiving proposals via electronic submission.

Please note the type and number of files allowed. The maximum upload file size is 1000 MB. Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed. Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated. Minimum system requirements: Microsoft Edge, Google Chrome, or Mozilla Firefox. Javascript must be enabled. Browser cookies must be enabled.

Name	File Type	# of Files	Requirement
Completed NC State University RFP Document	PDF	1	Required
Technical Proposal	PDF	1	Required
Section 7 Cost Proposal	BidTable: Excel (.xlsx)	1	Required
Evidence of NC General Contractor's license	PDF	1	Required
Certificate of Insurance	PDF	1	Required

All documents required to complete your submission must be downloaded from the supporting documentation and/or requested information sections of Bonfire. You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission. Each item of Requested Information will only be visible to NC State University after the Closing Time.

4. **ORAL PRESENTATIONS:** During the evaluation and at their option, the evaluators may

request oral presentations from any or all offerors for the purpose of clarification or to amplify the materials presented in any part of the proposal. However, offerors are cautioned that the evaluators are not required to request clarification; therefore, all proposals should be complete and reflect the most favorable terms available from the offeror.

5. **PROPOSAL EVALUATION:** Proposals will be evaluated as outlined herein. The award of a contract to one offeror does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed to provide the best value to the University, and/or the State.
6. **COMMENCEMENT OF SERVICES:** After proposals are evaluated, and an offer is made, accepted and approved by appropriate authorities, the University will issue a purchase order, a contract or a letter of agreement as an indicator to commence services.
7. **REQUEST FOR OFFERS:** Offerors are cautioned that this is a request for offers, not a request to contract and the University/State reserves the unqualified right to reject any and all offers when such rejection is deemed to be in the best interest of the University or State.
8. **ORAL EXPLANATIONS:** The University shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
9. **REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
10. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the University will not reimburse any offeror for any costs incurred prior to award.
11. **TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of forty-five (45) days from the proposal opening. Although the contract is expected to be awarded prior to that time, the 45-day period is requested to allow for unforeseen delays.
12. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
13. **CONFIDENTIALITY OF PROPOSALS:** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the using or issuing agency, government or private, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of the State, from contract award. Only discussions authorized by the University are exempt from this provision.
14. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of the State when received.
15. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
16. **PROPRIETARY INFORMATION:** To the extent permitted by N.C.G.S. §132-1.3 trade secrets which the Contractor does not wish disclosed other than to personnel involved in the evaluation or contract administration will be kept confidential identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information is not confidential. In spite of what is labeled as confidential, the

determination as to whether or not it shall be determined by North Carolina law.

17. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to N.C.G.S. §143-48 and Executive Order #150, the University invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
18. **PROTEST PROCEDURES:** A party wanting to protest a contract award pursuant to this solicitation must submit a written request to the Director of Purchasing, North Carolina State University, Purchasing Department, Campus Box 7212, Raleigh, NC 27695-7212. This request must be received in the University Purchasing Department within thirty (30) consecutive calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. NOTE: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Offerors may call the purchaser listed on the first page of this document to obtain a verbal status of contract award. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519.
19. **CONTRACTOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Contractor Link NC allows Contractors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Electronic Vendor Portal System. Online registration and other purchasing information are available on the web site: <http://www.state.nc.us/pandc/>.
20. **RECIPROCAL PREFERENCE:** N.C.G.S. §143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.
21. **ENTERPRISE-LEVEL IT SYSTEMS OR TECHNOLOGIES:** The University is committed to promote and integrate universal IT accessibility in the delivery of its resources and to develop innovative solutions to accessibility challenges for students, faculty and staff. Contractors shall:
 - a. Assure all features, components and subsystems of the software or IT System contained on this RFP **fully comply** with Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C.794d), (<http://www.section508.gov>);

OR

Detail why any feature, component or sub-system contained in this RFP does not **fully comply** with Section 508, and the way in which the proposed product is out of compliance;
 - b. If the Voluntary Product Accessibility Templates (VPAT) (<https://www.itic.org/policy/accessibility/vpat>) are used, they must include compliance checklists for:
 1. Technical Standards;
 2. Function and Performance Criteria; and
 3. Documentation and Support
 - c. The product offered in response to this RFP is subject to an accessibility evaluation by the University.

NORTH CAROLINA STATE UNIVERSITY GENERAL CONTRACT TERMS AND CONDITIONS

(Contractual and Consultant Services)

1. **GOVERNING LAW:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
2. **SITUS:** The place of this contract, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
3. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the University.
4. **KEY PERSONNEL:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the University's Contract Administrator. The individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.
5. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the University's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
6. **INSPECTION AT CONTRACTOR'S SITE:** The University reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to contract award, and during the contract term as necessary for the University's determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
7. **PERFORMANCE AND DEFAULT:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, the University shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of the University, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials.

Notwithstanding, the Contractor shall not be relieved of liability to the University for damages sustained by the University by virtue of any breach of this agreement, and the University may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the University from such breach can be determined.

In case of default by the Contractor, the University may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The University reserves the right to require a performance bond or other acceptable alternative guarantees from a successful offeror without expense to the University.

In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all

existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State.

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the University may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the University.

8. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The University reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
9. **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
10. **TERMINATION:** The University may terminate this agreement at any time by providing written notice to the contractor at least thirty (30) days before the effective date of the termination. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the University, become its property. If the contract is terminated by the University as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made. All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitations. The Contractor may terminate at the beginning of any contract year, only by notification provided in writing to the University a minimum of four (4) months prior to the applicable contract year expiration.
11. **AVAILABILITY OF FUNDS:** Any and all payments to the Contractor are dependent upon and subject to the availability of funds to the University for the purpose set forth in this agreement. The university pays Net 30 days from receipt of a proper invoice.
12. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the University.
13. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.
14. **COPYRIGHT:** No deliverable items produced in whole or in part under this agreement shall be the subject of an application for copyright by or on behalf of the Contractor. In addition, all inventions and the copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the Contractor's performance of this project shall vest in the University, and the Contractor agrees to assign all rights therein to the University. Contractor further agrees to provide University with any and all reasonable assistance which University may require to file patent applications, to obtain copyright registrations, or to perfect its title in any such inventions or works, including the execution of any documents submitted by the University.

15. **ASSIGNMENT:** No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the University may:

1. Forward the contractor's payment check(s) directly to any person or entity designated by the Contractor, or
2. Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).

In no event shall such approval and action obligate the University to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

16. **COMPLIANCE WITH LAWS:** The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

17. **AFFIRMATIVE ACTION:** The Contractor shall take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.

18. **SAFETY STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

19. **INSURANCE:** During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:

1. **Worker's Compensation** - The contractor shall provide and maintain Workers Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
2. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability).
3. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$1,000,000.00 bodily injury and property damage; \$1,000,000.00 uninsured/underinsured motorist; and \$1,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

20. **ADVERTISING:** Contractor shall not use the existence of this contract or the name of the State of North Carolina or North Carolina State University as part of any advertising without prior written approval from the University.
21. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposal, any addenda thereto, and the offeror's response are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

22. **AMENDMENTS:** This contract may be amended only by written amendment duly executed by authorized representatives of both the University and the Contractor.
23. **TAXES:** N.C.G.S. §143-59.1 bars the Secretary of Administration from entering into contracts with Contractors if it or its affiliates meet one of the conditions of N.C.G. S. §105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the Contractor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the Contractor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
24. **GENERAL INDEMNITY:** The Contractor shall hold and save the University, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the Contractor provided that the Contractor is notified in writing within 30 days that the State has knowledge of such claims. The Contractor represents and warrants that it shall make no claim of any kind or nature against the University's agents who are involved in the delivery or processing of Contractor goods to the University. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
25. **OUTSOURCING:** Any Contractor or subcontractor providing call or contact center services to the University or State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the Contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the University agent responsible for the contract.

Contractor must give notice to the University of any relocation of the Contractor, employees of the Contractor, subcontractors of the Contractor, or other persons performing services under a state contract outside of the United States.

26. **PRICING:** All prices offered herein shall be firm against any increases. Requests by the Contractor for a cost increase relevant to any contract extension shall be submitted in writing one hundred and eighty (180) days prior to each contract renewal. The University reserves the option of accepting a Contractor's proposed cost increase or canceling the service and seeking proposals from other Contractors. Requests for cost increases will be indexed to the same percent as any change in the Consumer Price Index/All Urban Consumers for the previous twelve month period of the request. Invoices are paid Net 30 days from receipt of an accurate invoice.

27. **DEBARMENT CERTIFICATION:** Offeror certifies to the best of its knowledge and belief, that it nor any of its principals a) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contract by any Federal agency; b) have not within a three year period preceding this award been convicted of or had a civil judgment rendered against them for: commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to this submission of offers; or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property; and c) are not presently indicted for, or otherwise criminally or civilly charged by a government entity with, commission of any of these offenses enumerated herein. The offer certifies that they have not, within a three year period preceding this offer, had one or more contracts terminated for default by any federal agency.

"Principles" for the purpose of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segments, and similar positions.)

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution. Certification of this provision is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the University, the University may terminate this agreement for default.

Offeror hereby certifies these conditions and does so by signing the execution page of this RFP document.

28. **PRIVACY:**

1. **Personal Identifiers:** If University provides the Contractor with personal identifiers as listed in N.C.G.S. §132-1.10 and in N.C.G.S. §14-133.20(b) or any other legally confidential information, Contractor hereby certifies that collection of this information from University is necessary for the performance of Contractor's duties and responsibilities on behalf of University under this Contract. Contractor further certifies that it shall maintain the

confidential and exempt status of any social security number information, as required by N.C.G.S. §132-1.10(c) (1), and that it shall not re-disclose personally identifiable information as directed by State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Contractor for a period of at least five (5) years from date of violation. If Contractor experiences a security breach, as defined in N.C.G.S. §75.61(14), relating to this information, in addition to the Contractor's responsibilities under the NC Identity Theft Protection Act, Contractor shall immediately notify University with the information listed in N.C.G.S. §75-65(d)(1-4) and shall fully cooperate with University. Contractor shall indemnify University for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of University data provided to Contractor pursuant to the Contract.

2. **Education Records:** If the University provides the Contractor with "personally identifiable information" from a student's education record as defined by FERPA, 34 CFR §99.3, Contractor hereby certifies that collection of this information from University is necessary for the performance of Contractor's duties and responsibilities on behalf of University under this Contract. In this instance, University considers Contractor a school official with a legitimate interest under FERPA. Contractor further certifies that it shall maintain the confidential status of education records in their custody, and that it shall not re-disclose personally identifiable information as directed by FERPA. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Contractor for a period of at least five (5) years from date of violation. If Contractor experiences a security breach relating to this information or if Contractor re-discloses the information, Contractor shall immediately notify University. Contractor shall indemnify University for any breach of confidentiality or failure of its responsibilities to protect the personally identifiable information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of University data provided to Contractor pursuant to the Contract.
29. **AUDITS:** The State or University auditor, or the Joint Commission on Governmental Operations and legislative employees whose primary responsibility is to provide professional or administrative services to the Commission, may audit the records of Contractor during and after the term of this Agreement to verify accounts and data affecting fees or performance in accordance with North Carolina General Statutes §143-49(9) and §147-64.7 and Session Law 2023-134.
30. **PRESERVATION OF RECORDS:** If the University provides any data to Contractor pursuant to this Agreement then Contractor shall preserve and maintain the data for a period of three (3) years or as indicated in a litigation hold letter issued by University, to fulfill the University's obligations under the North Carolina Public Records Act and under the Federal and North Carolina Rules of Civil Procedure. Contractor shall immediately preserve and maintain data (and any generated email correspondence) upon the University's request or upon notice of litigation or audit and further Contractor shall make available all Data University may specify with the time limits required.
31. **CONTRACTOR EMPLOYEE BACKGROUND CHECKS:** The Contractor shall, at no additional cost to the University, secure appropriate background checks on all employees, independent contractors, or subcontractor employees to be assigned to any resulting contract. These background checks shall include, at a minimum, the following checks with consideration for current, past, alias and maiden names:
 - Nationwide Federal Criminal search
 - National Sex Offender Registry search

- North Carolina Statewide Criminal search
- Criminal searches in all counties of residence outside the state of North Carolina in the past seven (7) years, except in cases when the individual has resided in the New York boroughs of Kings, Queens, New York, Nassau, Richmond, or Bronx, in which case a New York Statewide Criminal Search is required
- Skip Trace, Residency history, or other Social Security Number-based search (to ensure validity and correct matching)

The Contractor shall align its hiring decisions to support the University's ongoing effort to maintain a safe, drug-free environment for students, faculty, staff and visitors.

These background checks shall be maintained by the Contractor and are subject to audit by appropriate University or state officials at any time during and for five (5) years after the contract end date. The University may withhold consent of any of Contractor's personnel to be placed on a University assignment at its sole discretion. The Contractor shall immediately (same day as notification) remove any employee or representative from University property if deemed by the University to be unfit for any reason.