

REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: 15.

Date of Request: November 19, 2007

Date Request Received:

Board Meeting Date Requested: December 3, 2007

Board Meeting Date Assigned:

Short Title: Resolution Accepting Bid Proposal And Issuing A Purchase Order To Carolina Resource Mapping Inc. For Color And Infrared Orthophotography Of Pender County; \$105,853.

- Request Status:**
- Request is proceeding to Board of Commissioners
 - More information is needed – see attached
 - Request on hold – no further information needed
 - Other:

Background: Pender County is currently using Orthophotography from 2003 (received from the state) that does not meet North Carolina Land Records Management Program specifications. The last time Pender County contracted for an orthophotography product was in 1999. Most counties update their orthophotography every four to eight years and even sooner in counties that experience significant growth between flights. Pender County, along with six other counties (Bladen, Brunswick, Robeson, Harnett, Cumberland, Sampson), sent out a request for proposals in October to six vendors. A committee made up of representatives from each of the seven counties met and recommended Carolina Resource Mapping be contracted to provide the orthophotography for all of the counties. Because this is a joint effort, the cost to Pender County is less than what it would have been if we would have contracted on our own and the quality of the product will be better (color, infrared, and higher resolution). This expenditure can be paid from the 911 Wireless Fund: \$105,853 (251-404500).

(Administrative Use Only)

CONTRACT TYPE

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
 - Federal Grantor
 - State Grantor
 - Grant or
- County as Grantor
 - County Funds
 - Other Funds:
- Revision
- For Equipment

PURCHASING Budgeted Item: Yes No
Date Rec'd: Reviewed and Approved
 Comments on Reverse

Date Sent: Signed:

ATTORNEY Reviewed and Approved
Date Rec'd: Legal Problem(s)
 Comments on Reverse

Date Sent: Signed:

FINANCE Sufficient Funds Available
Date Rec'd: Not Available
 Budget Amendment Necessary
 Budgeted Amendment is Attached
 Comments on Reverse

Date Sent: Signed:

CLERK Signature(s) Required:
 Board Chairman/County Manager
 Other:

Date Rec'd Approved by Board: Yes No
At meeting on

Requested by: Carson Smith
Department: Sheriff
Title:
Contact Phone: 910-259-1514
Contact Fax: 910-259-1509

Manager's Recommendation

Respectfully recommend approval.

WAB

Initials

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, by the Pender County Board of Commissioners that

the proposal from Carolina Resource Mapping Inc. for color and infrared orthophotography of Pender County be accepted and that the County Manager is authorized to enter into a contract with Carolina Resource Mapping Inc. for such purpose; and,

BE IT FURTHER RESOLVED that

a purchase order be issued to Carolina Resource Mapping Inc. for this purpose in an amount not to exceed \$105,853.

251-404500

\$ 105,853.00

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Rivenbark ___ Blanchard ___ Brown ___ Tate ___ Williams ___

F.D. Rivenbark, Chairman

12/03/2007

DATE

ATTEST

12/03/2007

DATE

AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2007, by and between BOARD OF COMMISSIONERS OF Pender County, NC hereinafter referred to as the “**County**”, and Carolina Resource Mapping, whose office is at 3517 Wrightsville Avenue, Suite B, Wilmington, North Carolina 28403, hereinafter referred to as the “**Consultant**”.

WITNESSETH THAT;

WHEREAS, the **County** agrees that this contract is based on a proposal from the **Consultant** to a seven county organization, hereinafter referred to as the “**Organization**”, consisting of Brunswick County, NC, Bladen County, NC, Pender County, NC, Robeson County, NC, Cumberland County, NC, Harnett County, NC, and Sampson County, NC.

WHEREAS, the **County** agrees that this contract shall be deemed null and void if all seven counties making up the **Organization** do not sign and agree to their respective contracts based on the original proposal by the **Consultant**.

WHEREAS, the **County** desires to engage the **Consultant** to render certain professional services and deliver certain materials hereinafter described; and

WHEREAS, the **Consultant** represents that it is qualified, willing and able to provide the professional services and deliver the requested materials to the **County** according to the **County’s** specifications and the terms of this Agreement; it is therefore agreed and understood that;

I. SCOPE OF AGREEMENT

Based upon the **Organization’s** Request for a proposal, and the **Consultant’s** responding proposal submitted to the **Organization** on October 19, 2007 and later revised and re-submitted on November 6, 2007, it is the intention of both parties that this Agreement provide a Contract to cover a mapping project involving Digital Aerial Acquisition, Ground Control Paneling, Analytical Triangulation, Color Digital Orthophoto Production and Color IR Digital Orthophoto Production base mapping of Pender County, North Carolina, to be conducted as described in the original RFP from the **Organization** and in other provisions herein. All project work will be accomplished in compliance with the project specifications as outlined in the latest revision of the NC Land Records Specifications, the regulations of the NC Board of Registration for Engineers and Surveyors, the **Organization’s** RFP and the **Consultant’s** Proposal.

** 1074 tiles will be delivered in order to cover the area of the County based on the County’s 200 scale grid. 1045 tiles is the number of tiles Pender County is paying for due to cost sharing of sheets with other adjacent Counties included in this project.*

<u>Type of Mapping</u>	<u>Scales</u>	<u>Quantities</u>
1. Digital Orthophoto Base Maps	1"=200'	1045

All digital mapping will be based upon North Carolina State Plane Coordinate System.

NAD 1983(NSRS 2007).

The agreed upon price to be paid to the **Consultant** for the project shall be **\$105,853.00**
Work shall be completed and invoiced by the Consultant in the following Phases:

A. Phase I.

- a. This phase of the project comprises the project planning, control paneling, LiDAR processing and project management phase of the project. The **Consultant** will produce a project plan and meet with **County** representatives as necessary in order to initiate the project. Paneling of ground control monuments within and around the mapping area will be accomplished as per the **Consultant's** discretion in order to best complete the project and meet the specified accuracy as defined in the **Consultant's** Technical Proposal. Approximately fifteen existing monuments are to be paneled. Also, this phase will comprise processing of North Carolina Floodplain Mapping Program LiDAR. The **County** will be responsible for acquiring this data from the State of North Carolina and delivering the data to the **Consultant**. The **Consultant** requests that the county acquire the 20' gridded LiDAR data. In order to avoid processing delays, the LiDAR data should be delivered to the **Consultant** no later than December 31, 2007. If the data is delivered after December 31, 2007, the delay in supplying said data will become an automatic extension of the completion date. The **Consultant** will invoice 30% of the total contract amount, \$30,534.60 for this phase upon the signing of this contract.

B. Phase II.

- a. This phase comprises Digital Aerial Imagery Acquisition to include Airborne GPS and IMU readings. The Consultant will utilize the Z/I DMC sensor for all aerial acquisition and all aerial imagery will be acquired so as to produce color and color infrared digital orthophotos with a 0.5' final pixel resolution. Digital Aerial Acquisition will be performed on suitable flight days with all acquisition completed prior to March 16, 2008. The **Consultant** shall have sole discretion to determine if a day has suitable conditions to acquire the digital aerial imagery. The **Consultant** will keep a daily log of weather, GPS conditions and other factors influencing the digital aerial acquisition during the allotted flying time. The **Consultant** will not be penalized if there are an insufficient number of suitable days in the allotted time period ending March 16, 2008 due to circumstances beyond the **consultants** control including, but not limited to, weather, unsuitable GPS conditions, atmospheric haze, smoke, fog, unsuitable space weather (affecting GPS systems), or other force majeure as defined in section II, part C of this document. If such a situation occurs, the **Consultant** will complete the digital aerial acquisition under the same contract specifications by March 16, 2009 and complete the subsequent project in a timely manner after that date. The **Consultant** will invoice 30% of the total contract amount, \$30,534.60 for this phase upon the completion of this contract. If, for reasons stated above, the digital aerial imagery acquisition is not completed to 100%, the **Consultant** will invoice based on the percentage of imagery acquired against the total of \$30, 534.60.

C. Phase III.

- a. This phase of the contract will comprise Fully Analytical Aerial Triangulation (FAAT) of

all raw digital imagery and softcopy rectification of 1045 of 1"=200' color orthophoto images with 0.5' pixel resolution. The **Consultant** will complete the FAAT process by to the end of July 2008 and deliver the results of this Triangulation process to the county in the form of a written report. The **Consultant** will deliver all orthophoto data to the county by the end of December 2008, with staged deliveries during a period of September 1, 2008 through December 31, 2008. All orthophoto data will be delivered as uncompressed TIF/tfw files on external USB Hard Disk Drives that are compatible with the **County's** GIS Hardware. All orthophoto data will also be reprocessed by the **Consultant** as compressed MrSID files based upon a compression ratio as selected by the County from the Pilot project. The **Consultant** will invoice 30% of the total contract amount, \$30,534.60 for this phase upon delivery of the color digital orthophoto images.

D. Phase IV.

- a. This phase will comprise softcopy rectification of 1045 1"=200' color infrared orthophoto images with 0.5' pixel resolution. The **Consultant** will deliver all orthophoto data to the county by the end of December 2008, with staged deliveries during a period of September 1, 2008 through December 31, 2008. All orthophoto data will be delivered as uncompressed TIF/tfw files. All orthophoto data will also be reprocessed by the **Consultant** as compressed MrSID files based upon a compression ratio as selected by the County from the Pilot project. The **Consultant** will invoice 10% of the total contract amount, \$10,178.20 for this phase upon delivery of the color IR digital orthophoto images.

E. Performance Bond

- a. The **Consultant** will provide a 100% performance bond for this project. This bond will be invoiced when it is acquired for a fee of \$4,071.00.

II. COMMENCEMENT AND PROSECUTION OF WORK

Work done by the **Consultant** will commence immediately upon receipt of authorization to proceed, and will be completed in full and with all "Deliverable Items" accepted by the **County** no later than the end of December 2008. It is expected that both parties will carry out their respective responsibilities as diligently and expeditiously as possible. However, in the event that unforeseen circumstances arise that may delay the timely completion of any part of the project, the following provisions will apply:

- A. If the **County** fails to supply the **Consultant** when requested with pertinent and necessary information or materials essential for the progress or completion of any part of the project, then the **Consultant** shall be permitted to effect a temporary suspension of work, and whatever time is lost as a result of the **County's** delay in supplying said information or materials will become an automatic extension of the completion date.
- B. Delays on the part of the **Consultant**, not specifically excused by force majeure, as defined below, may be excused and become an extension of the applicable completion date, if:
 1. The **Consultant** has submitted in writing and in advance of the applicable

completion date, a request that certain delays of work be excused by the **County**, stating therein explicit reasons which would justify such delays; and

2. The **County** responds in writing, granting to the **Consultant** approval for an extension to the applicable completion date for a specified time limit based upon the **Consultant's** request. Such approvals for extensions of time for completion dates will not be unreasonably withheld by the **County**. Significant delays not specifically excused by force majeure or in writing by the county may be grounds for termination of this contract.

- C. Force Majeure: The **Consultant** shall not be liable for loss or damage due to delay in delivery resulting from any cause beyond **Consultant's** reasonable control or due to compliance with any regulations, order, acts, instructions or priority requests of any Federal, State or Municipal Government or any department or agency thereof, civil or military authority, acts of God, acts or omissions of the **County**, fires, floods, unusually severe weather, strikes, blackouts, factory shutdowns, altercations, embargoes, wars, riots, delays or shortages in transportation. In the event of such delay, the **County**, upon written request of the **Consultant**, shall equitably adjust those contractual provisions, including price and delivery, as may be affected by such a delay.

III. PROJECT DELIVERABLES

The **Consultant** shall deliver the specific items as described in the original RFP.

IV. WARRANTY, LIABILITY, AND STANDARD OF CARE

The **Consultant** shall perform services for the **County** in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of competent Consultants practicing in the same or a similar locality as the project. In the event any portion of the services fails to comply with this warranty obligation and the **Consultant** is promptly notified in writing prior to ninety (90) days after completion of such portion of the services.

This warranty is in lieu of all other warranties. No other warranty, expressed or implied, including warranties of merchantability and fitness for a particular purpose is made or intended by any proposals submitted pursuant to this Contract, by furnishing an oral report of the findings made or by any representations made regarding the services included in this Agreement.

In no event shall the **Consultant** be liable for any special, indirect, incidental or consequential loss or damages.

The total liability of the **Consultant**, whether in contract, tort (including negligence whether sole or concurrent), or otherwise arising out of, connected with or resulting from the services provided pursuant to this Agreement, shall not exceed the total amount of the Contract.

V. PAYMENTS TO CONSULTANT

- A. Payments of the agreed upon total cost for each phase of work will be made by the **County** to the **Consultant** as the work is completed and described herein.

- B. The **Consultant** may secure payment for a percentage or the full amount of monies allocated to tasks under each Phase by submitting to the **County** the following:
1. All deliverable items or evidence of work-in-progress representing that percentage or the full amount of work for which the **Consultant** is claiming payment; and
 2. A dated invoice showing the amount of the claimed payment with a brief description of the work done for each separate amount being claimed. Invoices may be submitted on a monthly basis.
- C. The **County** will make prompt payments, within thirty days (30) of receipt of any invoice, to the **Consultant** following receipt of the items described in section V, parts A and B above, and subject to the following:
1. Acceptance by the **County** as complete, satisfactory and meeting all applicable specifications--of all deliverable items, or evidence of work in progress, representing that percentage of the full amount required to substantiate the claimed payment.
 2. Ten percent (10%) of the total amount of each project phase will be withheld as retainage until all items within that phase are completed and formally accepted by the county as satisfactory and meeting all applicable specifications.
- D. The **County** shall pay within thirty (30) days all payment claims submitted by the **Consultant**, meeting all of the above requirements, and not formally disputed by the **County**. All payment claims not paid within thirty (30) days within the date of the invoice that are not disputed by the **County** shall incur interest at the rate of 1 ½ % per month on the unpaid balance. This is an annual interest rate of 18%. The **County** shall not use the disputation of one payment claim as a reason for disputing or not paying on time any other payment claim.

VI. WORK-IN-PROGRESS INSPECTIONS

The **Consultant** shall cooperate fully with the **County** or the **County's** representatives in making possible work-in-progress inspections as frequently as desired by the **County**. In the event the **County** or its representatives reasonably find that project work is not being performed in accordance with the applicable specifications, then the **County** shall promptly notify the **Consultant** in writing of the unacceptable work, and the **Consultant** shall take immediate appropriate corrective actions.

VII. LIQUIDATED DAMAGES

The **Consultant** agrees to pay **Pender County** Liquidated Damages at a rate of \$100.00 per day, in the event that the project for **Pender County** is not complete by December 31, 2008 if there are not agreed upon mitigating circumstances that call for an extension of this date.

The **Consultant** agrees to pay the ~~Organization~~ Liquidated Damages at a rate of \$100.00 \$700.00 per day, or to each individual county involved at a rate of \$14.28 \$100 per day, in the event that the project is not complete by December 31, 2008 if there are not agreed upon

~~mitigating circumstances that call for an extension of this date.~~

VIII. OTHER LEGAL RESPONSIBILITIES OF PARTIES

- A. The **Consultant** shall observe and comply with all applicable federal, state, and local laws, ordinances and regulations during its performance under this Agreement.
- B. The **Consultant** shall save harmless the **County** and its representatives from all suits, actions or claims of any kind brought on account of any injuries or damages sustained by any person or property in consequence of any act of omission by the **Consultant** or its employees or agents, or from any claims or amounts due arising or recovered under the State's Workmen Compensation laws. **Consultant's** indemnity and hold harmless obligation undertaken pursuant to this contract, if any, shall specifically exclude that portion of such obligations which could require **Consultant** to indemnify or hold harmless client, its agents, employees, or Consultants for their own negligence.
- C. The **County** agrees to mitigate its damages, should any damages arise in the course of this Agreement, to every extent possible, and to take such reasonable measures to prevent injury or damages within its jurisdiction as any reasonable prudent individual or entity would take.
- E. Fees described herein do not include North Carolina sales & use tax. These shall be added to invoices as separate items by the **Consultant**, as appropriate.

IX. ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither party shall assign its rights and/or obligations under this Agreement without the prior written consent of the other party.

X. PRICE ESCALATION

The unit rates contained herein shall remain in effect until December 31, 2009. In the event the **County** should cause the project to be delayed beyond December 31, 2009, then the unit rates contained herein may be adjusted to reflect any increases in the Producer Price Index (PPI). Any services provided to the **County** after December 31, 2009, may reflect the average annual PPI for the calendar year prior to when the services are actually provided. Any increase in any unit rates shall not exceed 6% in any calendar year.

XI. WAIVER, MODIFICATION AND SEVERABILITY CLAUSE

No waiver, modification or cancellation of any term or condition of this Agreement shall be effective unless made in writing and signed by authorized representatives of each party. Nor shall any waivers be deemed to excuse the performance of any act other than those specifically referred to in said written notice of waiver. If any provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforce as so limited.

XII. NOTICE PROVISION

Any notice or communication pertaining to this Agreement shall be deemed to have been duly given by the parties hereto if sent to the other by registered mail, by telegraph or telex to the address hereinafter stated, or to such other address as the parties may mutually agree upon.

For the County:

Pender County GIS

Burgaw, NC

Mr. Jerry Simmons

(910) 259-0129

For the Consultant:

Carolina Resource Mapping, Inc.

3517 Wrightsville Avenue

Suite B

Wilmington, NC 28403

Attn: Scott Williams, PLS, PPS

President

Phone: (910) 799-8100

Fax: (910) 799-6800

swilliams@mapres.com

XIII. CONSTRUCTION

This Agreement shall be construed and interpreted in accordance with the laws of the State of North Carolina, exclusive of its rules pertaining to conflict of laws.

XIV. DISPUTES

Any dispute arising under this contract which is not settled by agreement of the parties may be litigated in the courts of the state of North Carolina, or the federal courts of the United States of America.

XV. ENTIRE AGREEMENT

The terms and conditions of this Agreement and any document specifically incorporated herein by reference, if any, constitute the entire Agreement between the parties. No prior communication, whether written or oral, nor any course of prior dealings between the parties shall be read into such Agreement for purposes of construction, interpretation or any other purposes whatsoever.

IN WITNESS WHEREOF, the parties have caused this instrument, consisting of eight (8) pages, and any other documents referenced herein to be executed by themselves or their duly authorized officers or agents hereunto the day and year first written above.

**BOARD OF COUNTY COMMISSIONERS
OF PENDER COUNTY, NC**

CAROLINA RESOURCE MAPPING

BY: _____
Chairman

BY: _____
Scott C. Williams, PLS, PPS, President

ATTEST:

WITNESS:

APPROVED AS TO LEGAL FORM AND ADEQUACY

County Attorney

THIS INSTRUMENT HAS BEEN PRE-AUDITED IN THE MANNER REQUIRED BY THE NORTH CAROLINA LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACTS.

BY: _____
Finance Director