

NORTH CAROLINA

ALAMANCE COUNTY

AGREEMENT FOR DESIGN SERVICES

WHEREAS, CRA Associates, Inc. (“Consultant”) has agreed to provide professional design services for the Alamance County Courthouse Expansion & Renovation project, as outlined in its proposal (“Services”), which is attached hereto as Exhibit A and incorporated as an integral part of this Agreement.

WHEREAS, Alamance County (“County”) wishes to enter into an Agreement with Consultant to provide the goods and/or services specified in Exhibit A.

NOW THEREFORE, for good and valuable consideration exchanged, which the Parties mutually agree to be beneficial, the parties agree as follows:

1. **Term of Agreement:** The term of this Agreement shall commence on the date signed by the second signing Party to this agreement and end on upon the completion of the Services, unless terminated as hereinafter set forth.
2. **Scope of Services:** Consultant shall provide professional design services as described in Exhibit A, including Schematic Design, Design Development, and Construction Document phases, as well as Construction Administration. The services include but are not limited to the deliverables and tasks outlined in the proposal.
3. **Compensation:** As compensation for the services, County shall pay the Consultant a lump-sum fee of \$3,148,000, as outlined in Exhibit A. This fee includes reimbursables for travel and printing. Additional services shall be billed separately as agreed in writing.
4. **Insurance:** Consultant shall maintain insurance policies at all times with minimum limits as follows:

<u>Coverage</u>	<u>Limits of Liability</u>
Workers’ Compensation	Statutory
Automobile Liability	\$1,000,000 per occurrence
General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Property Damage	\$1,000,000 per occurrence \$2,000,000 aggregate
Personal Injury	\$ 500,000 each occurrence \$1,000,000 aggregate

All insurance policies shall be issued by companies authorized to do business under the laws of the State of North Carolina and shall be rated not less than “A” by A.M. Best and Company. Consultant shall furnish Certificates of Insurance to County, naming County as an additional insured, prior to the commencement of operations. The certificates shall clearly indicate that Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this paragraph and that no material change or cancellation of the insurance

shall be effective without thirty (30) days prior written notice to the County. Compliance with the foregoing requirements shall not relieve Consultant from any liability or obligations under this Agreement.

5. Confidentiality: All proprietary data and information, if any, furnished to Consultant by County shall be regarded as confidential, shall remain the sole property of County and shall be held in confidence and safekeeping by Consultant for the sole use of County and Consultant under the terms of this Agreement. Consultant agrees that its officers, employees, and agents will not disclose to any person, firm, or entity other than County or its designated legal counsel, accountants, or practice management consultants any confidential information about County. Consultant agrees to carry out its obligations to County in compliance with all privacy and security regulations required by law.

6. Quality of Goods and/or Services: All goods and/or services hereunder shall be provided in a competent, professional and workmanlike manner and in strict compliance with this Agreement. The items and/or services hereunder shall be provided according to County's Specifications and Consultant's Proposal, which is attached hereto and incorporated herein by reference. Consultant will provide all goods and/or perform all services in accordance with the service levels and performance levels as may be set forth in this Agreement.

7. Intellectual Property Owned by Consultant: This Agreement is subject to the North Carolina public records law, and may be released upon request. Not all "Trade Secrets" will qualify as protected under N.C.G.S. §132-1.2 and 66-152. Consultant should consult legal counsel before signing this document if Consultant is unsure of its intellectual property status under these statutes.

8. Intellectual Property and Ownership of Deliverables: All design documents, drawings, specifications, and related materials created by the Consultant under this Agreement shall remain the property of the Consultant. However, the County shall have a non-exclusive license to use these materials solely for the purposes of this project, including future repairs, maintenance, and alterations.

9. Schedule of Deliverables: The Consultant agrees to adhere to the project schedule as follows:

- Schematic Design Phase: 3 months from the notice to proceed.
- Design Development Phase: 4 months from completion of the Schematic Design Phase.
- Construction Document Phase: 5 months from completion of the Design Development Phase.

Failure to meet these deadlines without a force majeure, as outlined in Section 20, will be considered a material breach of this Agreement.

10. Change Orders: Any changes to the scope of work, whether initiated by the County or necessitated by unforeseen circumstances, must be documented through a written change order. The change order must include a description of the change, its impact on the schedule, and any associated costs. Both parties must approve the change order in writing before implementation.

11. Warranties: The Consultant warrants that all design services shall comply with applicable laws, codes, and standards in effect at the time of execution. No additional warranties are provided, and the Consultant is not responsible for the performance of construction contractors or third parties.

12. Coordination with Other Contractors: The Consultant shall coordinate with the Construction Manager At-Risk (CMR) and other project consultants to ensure seamless execution of the design and construction phases. This includes participation in regular project meetings and addressing requests for information (RFIs) from other parties.

13. Permits and Regulatory Approvals: The Consultant shall be responsible for obtaining permits and regulatory approvals as specified in the scope of work in Exhibit A. The Building Permit will be obtained by the Construction Manager At-Risk, as outlined in the proposal.

14. Site Conditions: The Consultant shall not be held responsible for unforeseen site conditions that could not have been reasonably anticipated at the time of design. Any necessary modifications to the design due to such conditions will be treated as a change order.

15. Consultant Responsibilities: The Consultant shall oversee and coordinate the work of any sub-consultants listed in Exhibit A. Each sub-consultant shall perform its services under the direction of the Consultant and in accordance with the terms of this Agreement.

16. Status of Parties: Nothing contained in this Agreement shall be construed as establishing a partnership or joint venture relationship between Consultant and the County. Consultant and its employees and representatives are independent contractors, solely responsible for its or their performance under this Agreement and shall have no legal authority to bind County.

17. Assignment and Subcontracting: Neither this Agreement nor any rights or obligations hereunder shall be subcontracted, assigned, or delegated by Consultant without prior written consent of County, which consent may be withheld in County's sole discretion.

18. Binding Effect: This Agreement shall be binding upon the parties hereto, their heirs, administrators, executors, successors and assigns, if such assignment has been approved by the County.

19. Notices: Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been given on the date delivered personally or deposited in the United States Postal Service, certified mail, return receipt requested, with adequate postage affixed, addressed as follows:

Alamance County
Attn: County Attorney
124 W. Elm Street
Graham, NC 27253

CRA Associates, Inc.
Attn: Andrew Cruickshank
100 Europa Drive, Suite 565
Chapel Hill, NC 27517

Either party may change its address for notices under this Agreement by giving written notice of such change to the other party in accordance with the provisions of this paragraph.

20. Force Majeure: Neither Party shall be liable to the other party for any failure or delay caused by events beyond such party's control and not due to its own negligence, provided that such party uses commercially reasonable efforts to resume performance as soon as reasonably practicable. The non-performing Party shall notify the other Party of the force majeure event within twenty-four (24) hours of the onset thereof. In the event that a force majeure event precludes Consultant from performing services and/or providing goods for a period of ten (10) consecutive business days, County shall have the right to: (a) procure replacement goods and/or services from an alternative source and/or (b) terminate the Contract or portion(s) of Contract upon written notice to Consultant.

21. Governing Law: This Agreement and the rights and obligations to the parties hereunder shall be construed and governed by the laws of the State of North Carolina and venue for any proceedings arising hereunder shall be in the court of appropriate jurisdiction for Alamance County, North Carolina.

22. Modifications: This Agreement may be amended or modified only by the mutual written consent of the parties. A modification is not enforceable against the County unless it is signed by the County Manager or other duly authorized official.
23. Entire Agreement: This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Agreement.
24. Waiver: A waiver of any provision of this Agreement must be in writing, designated as such, and signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach thereof.
25. Termination: This Agreement may be terminated as follows:
- (i) Cause: If the services provided by Consultant under this Agreement are not performed as specified herein, this Agreement may be terminated by County for cause. Grounds for termination for cause shall include, but not be limited to, the following:
 - (a) Failure to respond to reasonable requests from County to provide the Services covered by this Agreement.
 - (b) Failure to keep and maintain any equipment required for the performance of this Agreement in good working order and in compliance and with all laws.
 - (c) Failure to properly recycle any electronic equipment as specified in Article 9, Chapter 130A of the North Carolina General Statute, or failure to comply with any statutory requirement included in the formal bid request, as provided in the bid packet, which bid packet is incorporated herein by reference.
 - (d) Failure to maintain the insurance required by this Agreement.
 - (e) Charging rates or fees in excess of those permitted under in this Agreement.
 - (f) Inefficient or unsafe practices in providing Services.
 - (g) The material breach of any provision of this Agreement.
 - (ii) Convenience: County reserves the right to terminate this Agreement upon thirty (30) days' prior written notice to Consultant for any reason deemed by County to serve the public interest. This termination for convenience will not be made when termination is authorized under any other provision of this Agreement. In the event of such termination County shall pay Consultant its costs directly attributable to those Services received by County prior to termination that meet the requirements of this Agreement. Provided, however, that no costs will be paid to Consultant which are recoverable in Consultant's normal course of doing business. County is not liable for the loss of any profits anticipated to be made hereunder, nor for any special, consequential or similar damage.
 - (iii) "Claw back" for Non-Performance or Violation: If Consultant fails to perform its obligations under this Agreement, or violates any of the provisions of this Agreement, County shall have the right to repayment of all unexpended funds at the time of such termination, and such funds shall be repaid promptly to County upon demand. Furthermore, County reserves the right to require Consultant to repay funds expended in violation of the terms and conditions of this Agreement.
26. Annual Appropriations and Funding: This Agreement is subject to the annual appropriation of funds by the Alamance County Board of Commissioners. Notwithstanding any provision herein to the contrary, in the event that funds are not appropriated for this Agreement, County shall be entitled to immediately terminate this Alamance County Goods and/or Services Agreement

Agreement, without penalty or liability, except the payment for all Service satisfactorily provided under this Agreement up to and through Consultant's receipt of notice of termination.

27. **Indemnity:** Consultant agrees to indemnify and hold harmless County, its officers, elected officials, agents, servants, and employees from any and all claims, actions, lawsuits, losses, damages, expenses, judgments, or liabilities of any kind whatsoever (including without limitation, cost of defense and attorney fees) suffered by County and proximately caused by an act or omission of Consultant, its subcontractors, agents, or employees. Consultant's liability for damages under this Agreement shall not exceed the total fees paid by the County for services rendered. In no event shall Consultant be liable for indirect, incidental, or consequential damages, including loss of profits or business interruptions.

28. **Time is of the Essence:** Completion of all services (and supply of all goods required) under this Agreement must be completed in a timely fashion. Failure to act within the time required constitutes a breach of this Agreement.

29. **Severability:** If any provision of this Agreement is held unenforceable, then it shall be stricken and all remaining provisions of this Agreement shall remain in full force and effect.

30. **State and Federal Requirements:** By signing this Agreement, Consultant certifies that Consultant, and (if applicable) any of Consultant's subcontractors, are in compliance with all applicable State and Federal laws (including, but not limited to, N.C.G.S. §143-129(j) regarding E-Verify, legal prohibitions against unlawful employment/workplace discrimination, and the requirement not to be listed on any divestment list published by the NC State Treasurer and any other Federal or State debarment or suspension lists).

31. **Controlling Document:** In the event of any conflict between this Agreement and any document, instrument, or other agreement prepared or provided by Consultant (including, without limitation, Consultant's purchase orders, invoices and warranties), the terms of this Agreement control.

IN WITNESS WHEREOF, the parties have executed this Agreement in their official capacities with legal authority to do so.

Alamance County

By: _____
Heidi York, County Manager

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

Susan Evans, Finance Director

Consultant

By: _____
Name: _____
Title: _____