



Request for Proposal

RFP # 18-001

Request for Proposals for Hospitality Tax Small Capital Projects Funding

Wake County, North Carolina
Raleigh, North Carolina 27602

Required Presubmittal meeting – November 3, 2017

**Proposals are due February 8, 2018 before
3:00 pm Eastern Time**

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1 Introduction

1.1 Introduction

Wake County, North Carolina ("The County") is seeking proposals from organizations to develop partnerships and to leverage resources to address projects supporting arts, cultural, sports or convention activities in Wake County. Throughout this request for proposals ("RFP"), the "Proposer" refers to organizations that submit proposals as described within this RFP.

1.2 Overview

1.2.1 Small Capital Projects

In 1991, Wake County was authorized by North Carolina Law to levy a room occupancy tax and prepared food and beverage tax for the purposes of supporting a convention center, arena and other cultural, sports and arts activities. These funds are governed through Interlocal Agreements between the Wake County Board of Commissioner and the Raleigh City Council. In 2017, a Small Capital Projects Fund was established to assist in the development of projects throughout Wake County that can impact sports, arts, culture and convention related activities for visitors and residents. Wake County receives \$2 million annually from the Room Occupancy and Food and Beverage Tax Revenues to support the Small Capital Projects Fund. Wake County intends to distribute these funds through a competitive process every two to three years. All funding decisions must be authorized by the Wake County Board of Commissioners.

Small capital projects are defined as expenditures for facilities or projects that generally cost \$100,000 or more and typically require longer than one year to complete. The County does not intend to fund recurring operational needs that may arise as a result of a funded Small Capital project.

The selection of particular projects for funding is based primarily on whether a proposal meets the parameters and criteria outlined in Section 4.0 and 5.0.

1.2.2 FY2017- 2018 Process

On October 2, 2017, the Board of Commissioners approved the process for selecting projects to receive Major Facilities Project funding. More information regarding the discussion that was held during the Board meeting is available by selecting video on the October 2, 2017 board meeting link:

<http://www.wakegov.com/commissioners/Pages/meetings.aspx>. It is item on the agenda. Information is also available on the Wake County website at wakegov.com/roomfoodtax

An evaluation team of Wake County staff and community representatives will conduct a review process that will begin with the distribution of Request for Proposals. Proposals will be due to Wake County on February 8, 2018 before 3:00 pm. The

evaluation committee will review submittals in February. The committee will receive presentations from each of the qualifying proposers in March. A second round of interviews may be needed to complete recommendations to the Board of Commissioners. It is anticipated that the Board of Commissioners will receive recommendations at the April 9, 2018 Work Session.

1.3 Funding Available

There is approximately \$3,500,000 available. The maximum amount a single organization may receive for a project will be \$1.5 million. The request of County funding should not exceed 35% of the anticipated total project capital costs. Of the remaining 65% of funding, the Proposer should be able to demonstrate current commitments of at least half of the non-county funding.

Projects selected for funding will enter into a funding agreement with the Board of County Commissioners. Actual payment will be contingent upon approval of the funding agreement and the terms established in the funding agreement for each project. An example funding agreement is available at www.wakegov.com/roomfoodtax. It is anticipated that any county funding for approved projects will not be distributed until the organization can demonstrate that other sources of funding for the approved project are obtained. County dollars are to be the last dollars into the project.

1.4 General Proposal Requirements

When responding to this RFP, please follow all instructions carefully. Please submit proposal contents according to the outline specified and submit documents according to the instructions. Failure to follow these instructions will be considered a non-responsive proposal and may result in immediate elimination from further consideration.

By submitting a proposal, Proposers acknowledge that:

- 1.4.1 The County reserves the right to reject any or all proposals. The County reserves the right to reconsider any proposal submitted at any phase of the procurement. It also reserves the right to meet with select Proposers at any time to gather additional information.
- 1.4.2 Proposals will be received by Wake County Government at the time noted on the cover page of this document. At that point, Wake County will close the receipt of proposals and begin the evaluation process. The County will likely distribute a brief summary of the proposals received include the names of the respondents, project title, and funding amount requested.

Wake County, solely at its option, may disclose the name(s) of any organizations being considered or elevated during the process. Proposers are not to contact any county staff or elected official in reference to the process due to the nature of a competitive environment and to protect the integrity of the RFP process until recommendations have been presented to the Board of Commissioners. As information becomes available and is relevant for release, that information will be shared with respondents.

1.5 Minimum Criteria

To be eligible for consideration, each proposal must meet the following minimum criteria:

1. The project must be fully located in Wake County.
2. The project must be consistent with the statutorily defined purposes of the funding related to convention, arts, culture or sports.
3. The project must be capital in nature with a minimum value of \$100,000.
4. The project proposal requests County funding for a maximum of 35% of the total project cost.
5. The amount requested from the County shall be no more than \$1,500,000.

2 General Submittal Requirements

2.1 Proposal Contact Prior to Submittal

A required presubmittal meeting to discuss the proposal process and evaluation criteria will be held on November 3, 2017 at 2:00 pm in Room 2800 of the Wake County Justice Center. Attendance or representation at this meeting is MANDATORY.

In regards to this RFP and subsequent selection process, proposers shall initiate NO CONTACTS, either written or verbal, with Wake County employees, evaluation committee members or Board of Commissioner member during the period beginning with the issuance of this document (October 9, 2017) through evaluation team recommendations to the Board of Commissioners (April 9, 2018) other than to the Proposal Contact identified below. ***Any attempt by a Proposer to initiate contact of the aforementioned may result in the disqualification of the Proposer from award of project funding through this RFP.***

Questions about the FY2018 Small Capital Projects Process may be asked at the pre-submittal meeting or written questions may be directed to:

Proposal Contact:

Denise Foreman
Wake County Manager's Office
919-856-5578
denise.foreman@wakegov.com

[Questions submitted and the County's response, including questions during the presubmittal meeting will be distributed to all attendees registered at the Pre-submittal meeting.](#)

2.2 Proposal Submittal Requirements

Proposers are required to prepare their proposals in accordance with the instructions outlined in this part and elsewhere in this RFP.

A single bound copy shall be submitted to the address shown below. Proposers shall also submit an electronic PDF version on Flash Drive. The PDF file should be in a printable format for 8 ½ X 11.

Mailing Address:

Tom Wester
Wake County Finance - Procurement Services
Wake County Justice Center – 2nd FL, Ste 2900
301 S. McDowell Street
Raleigh, NC 27601

The County must receive proposals before 3:00 PM on February 8, 2018.

The Proposer's name, RFP number, and proposal closing time and date must be marked clearly on the proposal submission.

The time of receipt shall be determined by the time clock in the Wake County Procurement Services office. The County will not be held responsible for the failure of any mail or delivery service to deliver a proposal response prior to the stated proposal due date and time. It is solely the Proposer's responsibility to: (1) Ascertain that they have all required and necessary information, documents and addenda, prior to submitting a response; (2) Ensure that the response is received at the correct location and time. Late responses, regardless of delivery means, will not be accepted. **Fax or email responses will not be accepted.**

2.3 Proposer Expenses

The County will not be responsible for any expenses incurred by any Proposer in the development of a response to this Request for Proposal or any other activities associated with this proposal including but not limited to any onsite (or otherwise) interviews and/or presentations, and/or supplemental information provided, submitted, or given to Wake County and/or its representatives. Further, the County shall reserve the right to cancel this process described herein prior to issuance and acceptance of any contractual agreement/purchase order by the recommended Proposer even if the Board of Commissioners has formally accepted a recommendation.

2.4 Proposed Schedule

October 2, 2017:	Timeline, Criteria, Funds Available, & Work Group Membership Presented at BOC meeting
October 9, 2017	RFP Posted on Wakegov.com
November 3, 2017:	Pre-submittal Meeting
February 8, 2018:	Submittals due to Wake County by 3:00 pm
February 2018:	Work Group Reviews Submittals
March 2018:	Work Group Receives Presentations from Proposers
March/April 2018	Work Group Develops Scores/Rankings
April 9, 2018:	Presentation of Recommended Funding at BOC Work Session
April/May 2018	BOC Decision

2.5 Interviews and Finalists

The evaluation team will review project proposals to determine if any should be deemed non-qualifying. A project would be deemed non-qualifying if it does not meet one of the minimum

qualifications identified in Section 1.5. The evaluation team will review project proposals and receive presentations from each qualifying proposal. From the proposals received, the evaluation team may identify a short-list of finalists. The finalists may be requested to attend a second meeting with the evaluation team to prepare recommendations for the Board of Commissioners. If located in municipal boundaries, finalists will be asked to submit a letter of support for the project from the Mayor or Town/City Manager for the governmental jurisdiction in which the project will be located.

2.6 Award

Wake County reserves the right to recommend funding to the Board of Commissioners without discussion and without conducting further negotiations. Under such circumstance, the acceptance of a proposal by the County shall be deemed to be an acceptance of an offer and that such acceptance will be binding upon both parties. The County may also, at its sole discretion, have discussions with those Proposers that it deems to fall within a competitive range. The County may enter into negotiations separately with such Proposers. Negotiations with a Proposer may continue with a Proposer that the County has tentatively selected to award a contract to. The County shall not be deemed to have finally selected a Proposer until the Board of Commissioners approves awarding of funding. The County may also choose to not recommend funding for any Small Capital Projects nor proceed with awarding funds through the FY 2018 Small Capital Project Process.

2.7 Non-disclosure of County Information

The Proposer and its agents shall not disclose or communicate the aforesaid matters to a third party or use them in advertising, propaganda, and/or in another job or jobs, unless written consent is obtained from the County.

2.8 Retention of Proposer Material

Any and all information submitted in conjunction with this RFP and the evaluation process will not be returned to the respondent.

3 General Terms and Conditions

3.1 Certification

The Proposer hereby certifies that it has carefully examined this Request for Proposal. By signature on the response to the RFP, the Proposer certifies that its proposal is in all respects fair and without collusion or fraud, so that all proposals for the purchase will result from free, open and competitive proposing among all proposers.

3.2 Conflict of Interest

By submission of a response, the Proposer agrees that at the time of submittal, it: (1) has no interest (including financial benefit, commission, finder's fee, or any other remuneration) and shall not acquire any interest, either direct or indirect, that would conflict in any manner or degree with the performance of Proposer's services, or (2) will not benefit from an award resulting in a "Conflict of Interest." A "Conflict of Interest" shall include holding or retaining membership, or employment, on a board, elected office, department, division or bureau, or committee sanctioned by and/or governed by Wake County. Proposers shall identify any interests, and the individuals involved, on separate paper with the response and shall understand that the County, in consultation with legal counsel, may reject their proposal.

3.3 Assignment

No assignment of the Proposer's obligations or the Proposer's right to receive payment hereunder shall be permitted without prior consent of the County. The Proposer may not sell, assign, transfer or convey the contract resulting from this RFP, in whole or in part, without the prior written approval from the County.

3.4 Indemnification

The Proposer will indemnify and hold the County harmless from any and all liability, expense, judgment, suit, or cause of action for personal injury, death, or direct damage to tangible property which may accrue against the County to the extent it is caused by the negligence of Proposer, its sub-Proposers, or their employees or agents, while performing duties under this Agreement, provided that the County gives the Proposer prompt, written notice of any such claim or suit. The County shall cooperate with Proposer in its defense or settlement of such claim or suit. This section sets forth the full extent of the Proposer's general indemnification of the County from liabilities that are in any way related to Proposer's performance under this Agreement.

3.5 Independent Contractor

It is understood that in the performance of any services herein provided, the Proposer shall be, and is, an independent contractor, and is not an agent or employee of the County and shall furnish such services in its own manner and method, except as required by this contract. Further, the Proposer has, and shall retain the right to

exercise full control over the employment, direction, compensation, and discharge of all persons employed by the Proposer in the performance of the services hereunder. The Proposer shall be solely responsible for, and shall indemnify, defend, and save the County harmless, from all matters relating to the payment of its employees, including compliance with Social Security, withholding, and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

3.6 Payment

Payment for the project funded pursuant to the Agreement resulting from this RFP shall be made in amounts and at times set forth in a subsequent contract. Actual payment will be contingent upon entering into an agreement approved by the Board of Commissioners, filing an annual status report with Wake County, and County staff approval that all terms and conditions of the agreement are in good standing. The contractual agreement shall have a clause regarding agreement validity based upon acknowledgement that the County is a governmental entity and any agreement validity is based upon the availability of public funding under the authority of the County's statute mandate.

3.7 Governing Law

This RFP and any contract resulting therefrom shall be governed by and construed according to the laws of the State of North Carolina. Should any portion of any contract be in conflict with the laws of the State of North Carolina, the State laws shall invalidate only that portion. The remaining portion of the contract(s) shall remain in effect.

3.8 Confidential Information/Public Records Law

The County assumes no responsibility for confidentiality of information offered in a proposal. The RFP does not intend to elicit proprietary information. However, if proprietary information is submitted as part of the proposal, the information is to be labeled as such. Proposals are not subject to public inspection until distribution of the August 8, Work Session material. Wake County reserves the right to share any information submitted in response to this RFP or process with any person(s) or firm(s) involved in the review and evaluation process. **Proprietary or confidential information must be clearly labeled as such at the time of initial submission and to the extent provided by N.C.G.S. Chapter 132, will not be made available for public inspection. In the event that a request for inspection is made under public records law, the Proposer will be notified of the request and may participate in any subsequent civil action to compel disclosure of confidential information.**

3.9 Compliance with Laws and Regulations and Policies

Proposer must comply with all applicable State and Federal Laws. In the event that any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful Proposer to notify Wake County at once, indicating in its letter the specific regulation which required such alterations. The County reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.

In consideration of signing any contract and as a condition of funding, the Proposer, its agents, officials, employees, and servants shall agree not to discriminate in any manner

on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with respect to the project for which funding is being requested.

3.10 Insurance

In order to be considered, all finalists will be required to demonstrate proof of Commercial General Liability Insurance, Commercial Automobile Liability Insurance, Worker's Compensation Insurance, and/or any other insurance appropriate to the work undertaken; or otherwise demonstrates financial responsibility appropriate to the work undertaken.

3.11 Deviation from Proposer's Stated Project Use

Proposer may not deviate from the stated project use of funds. In consideration of signing any contract and as a condition of funding, the Proposer shall agree that if the organization fails to meet or comply with a condition of the funding agreement for the use of funds, or if the recipient Proposer transfers all or part of an asset improved or acquired with County funding such that the County's intended purpose for the funding is frustrated, Wake County in its sole discretion may reduce the amount of funding, terminate the funding agreement, require repayment of funding, or require the recipient Proposer to transfer ownership of the asset to Wake County to the extent of Wake County's funding of the Project.

3.12 Hold Harmless Agreement

Any agreement funded by the Major Facilities Process will have a hold harmless agreement. The Proper will need to agree to defend, indemnify, and hold harmless the County from all loss, liability, claims, or expense (including reasonable attorney's fees) arising from bodily injury, including death or property damage to any persons or persons caused in whole or in part by the negligence or willful misconduct of the Proposers extend to the extent same are caused by the negligence or misconduct of the County.

3.13 Acceptance

Submission of any proposal indicates a Proposer's acceptance of the conditions contained in this RFP unless clearly and specifically noted otherwise in the proposal.

The County has the sole discretion and reserves the right to cancel this RFP, and to reject any and all proposals, to waive any and all informalities and/or irregularities, or to re-advertise with either the identical or revised information, if it is deemed to be in the County's best interests to do so. The County reserves the right to accept or reject any or all of the items in the proposal, and to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the County's best interest. Moreover, the County reserves the right to make no selection if proposals are deemed to be outside the fiscal constraint or not in the best interest of the County.

3.14 E-Verify - SPECIAL ATTENTION –

To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contractor(s), by submitting a bid, proposal or any other response, or by providing any material, equipment,



supplies, services, etc, attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS64-26(a)) relating to the E-Verify requirements.

3.15 By signing this agreement or acceptance of this contract/purchase order or by submission of any bid, proposal, etc., vendors, contractors certifies that as of the date of execution of this agreement or date of receipt of the purchase order, contractor/vendor and/or subcontractors affirm they are not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4, Iran Divestment Act Certification. Contractor/vendor shall not utilize any subcontractor that is identified on the list.

4 Detailed Submittal Requirements

4.0 Proposal Format

Proposers shall prepare their proposals in accordance with the instructions outlined in this section. Each Proposer is required to submit the proposal in a sealed package. Proposals should be prepared as simply as possible and provide a straightforward, concise description of the Proposer's capabilities to satisfy the requirements of the RFP. Utmost attention should be given to accuracy, completeness, and clarity of content. All parts, pages, figures, and tables should be numbered and clearly labeled. The proposal should be organized into the following major sections with tabs for each section:

PROPOSAL SECTION TITLE

	Title Page
	Letter of Transmittal
	Table of Contents
1.0	Executive Summary
2.0	Scope of Project (up to 15 points)
3.0	Project Budget and Funding Sources (up to 20 points)
4.0	Project Timeline (up to 15 points)
5.0	Project Operating Plan (up to 20 points)
6.0	Estimates on Visitors (up to 20 points)
7.0	Organizational Information (up to 10 points)

Instructions relative to each part of the response to this RFP are defined in the remainder of this section. Response information should be limited to pertinent information only. Marketing and sales type information is not to be included.

4.1 Executive Summary

(Proposal Section 1.0) This section of the response should be limited to a brief narrative summarizing the project proposal. The executive summary shall, at a minimum, include an identification of the proposed project, responsibilities of the project team, and a summary of the proposed cost of the project. This section should highlight aspects of the proposal that make it superior or unique in addressing the needs of the County. Please note that the executive summary should identify the primary engagement contact. Contact information should include a valid e-mail address, fax number, and a telephone number.

4.2 Project Overview and Objectives (up to 15 points)

(Proposal Section 2.0) This section of the response should include a general discussion of the Proposer's overall project proposal, and should include any graphics that depict the scope of the project if it involves design and construction of a new building, building expansion or renovation. Scaled floor plans, site plan, elevations or artistic rendering of proposed building

improvement if available should also be included in the response. The project must be consistent with Chapter 458, Section 5 of the 1995 N.C. Session Laws (see Attachment 1).

Additional information in this section should include:

1. An analysis of the demand or unmet need, inadequate facilities or future needs of sports, cultural, convention and arts programs in Wake County and the anticipated number of projected visitors / participants served.
2. A statement of the proposed project plan's effectiveness in addressing the community need in comparison to existing facilities. Include whether delays in the project impact its viability.
3. Clear demonstration regarding the need for County capital investment in order for project success. It should also include data to demonstrate a clear link between the project initiative and the resulting increase in overnight room stays and food and beverage purchases.
4. A description of how the proposer will collaborate with other organizations (government, non-profit, and corporate) to achieve the desired outcomes resulting in lasting community impact.
5. How the proposer would track and measure success and how that mechanism and data would be included in future reports submitted to the County.
6. A description of how the project is consistent with the Wake County Room Occupancy and Prepared Food and Beverage Operating Principles as identified in Attachment 2.

4.3 Project Budget and Funding Sources (up to 20 points)

(Proposal Section 3.0) Each proposal must provide the following information about the project budget and funding sources, so that the County can evaluate the Proposer's ability to support the commitments set forth in response to the RFP. The County, at its option, may require a Proposer to provide additional support or clarify requested information.

1. The Proposal must include all sources of funding for the proposed project, and year of commitment. Please note if the funding sources are pending, confirmed, committed or received. Include the ratio of private to public investment. Public investment will include funding from any unit of government. For all confirmed sources of funding, please remit evidence of commitment. Proposal should include funding for the current project only and should not include prior phases and should demonstrate current commitment for a least half of non-county funding. It is anticipated that any county funding for approved projects will not be distributed until the organization can demonstrate that other sources of funding for the approved project are obtained. County dollars are to be the last dollars into the project.
2. The Proposal must include a clear schedule of expenditures for the project, and at a minimum, should detail expenditures by category. Please state who prepared the cost estimates and if the costs include an inflation factor. Categories should include:

- Planning and Design
- Land Acquisition Right of Way
- Construction
- Equipment / Furnishings
- Other
- Contingency

3. Describe the impact on existing infrastructure, such as roads or water and sewer facilities.

4.4 Project Timeline (up to 15 points)

(Proposal Section 4.0) Each proposal must provide the following information about the project timeline, so that the County can evaluate the Proposer's ability to support the implementation and feasibility of the project. It is desired that all projects are able to secure a construction contract or building permit within 12 months of project approval and projects are complete within 36 months of approval. Make sure to include any actions already taken, as well as future actions. Any site plan approvals or zoning variances required for the project shall be noted and the status of those activities included in this section. The County, at its option, may require a Proposer to provide additional support or clarify requested information.

Project Action	Start Date	Finish Date
Study and Analysis of Project		
Site Identification		
Land/Site Acquisition		
Architectural/Engineering Studies		
Facility Construction		
Equipment Purchase		
Other (describe)		

4.5 Project Operating Plan (up to 20 points)

(Proposal Section 5.0) Each proposal must include a ten-year operating budget, showing anticipated revenues and expenditures in order to demonstrate the long-term viability of the project operations and protect the County's investment. Describe annual operating plan in detail. Provide information on the plan for management and marketing for the project. Include information related to the approach and funding commitment to facility maintenance and upkeep to ensure the ongoing operating viability and sustainability of the project.

Operating Budget & Financial Results

1. Submit latest copy of IRS form 990 or applicable tax return. For non-public tax returns, see section 3.8 regarding personal and confidential information.
2. Please provide one copy of most recent audit and management letter if your agency received one.

a. If your organization DOES NOT have an audit, review, or compilation submit:

- i. A completed Audit Form (Attachment 3) using figures from year-end financial statements. Attachment 3 is available electronically upon request.
- ii. A notarized letter from your treasurer confirming the accuracy of the statements

4.6 Project Visitor Estimates, Return on Investment and Performance Targets (up to 20 points)

(Proposal Section 6.0) Each proposal must provide estimated visitor information, including the estimated number of day-visitors (from within the county and within a 75-mile radius of the facility) and overnight visitors. Using the estimated visitor counts and formulas provided in Attachment 4: Visitor Estimates and Return on Investment, proposals should include the estimated annual economic impact of visitors for the project for the first seven (7) years of operation after completion of the capital investment and the estimated return on investment of the County's investment based on occupancy, prepared food and beverage taxes collected. Attachment 4 is available electronically upon request and on the web at wakegov.com/roomfoodtax. Visitor and return on investment estimates provided in the proposal will be used as the basis for performance targets included in the funding agreement for funded projects. Proposals may also include additional calculations of visitor estimates or project financial impacts if available.

4.7 Organizational Information (up to 10 points)

(Proposal Section 7.0) Each proposal must provide the following information about the submitting Proposer's, so that the County can evaluate the Proposer's ability to support the commitments set forth in response to the RFP. The County, at its option, may require a Proposer to provide additional support or clarify requested information.

Organization Background

1. How long the proposer been in business?
2. A brief description of the organization size and organizational structure. Include a list of the Board of Directors if applicable.
3. A list of all executive officers of the organization. If the organization is a statewide or national organization, submit the local chapter information.
4. Any material (including letters of support or endorsement) indicative of the Proposer's capabilities to implement the Major Facilities project.
5. Identify any litigation or governmental or regulatory action pending against your organization.
6. A description of contractual relationships, if any, with other organizations that would be a conflict of interest or appearance of conflicts of interest in partnering with Wake County to deliver the capital project.

Proposer Team Experience

1. Identify the proposed team indicating who is responsible for the key roles of the proposed project; provide an organizational chart showing lines of communication and levels of authority.

Similar Projects

1. Provide a description of a similar project or projects most similar to the one described in the proposal for which the organization has been responsible.

5 Available Information

5.0 Available Information Upon Request

Please contact Denise Foreman at denise.foreman@wakegov.com for additional information. Questions regarding preparing a response to this RFP will be accepted until noon EST January 12, 2018 to allow sufficient time to respond prior the RFP deadline. Copies of previous business plans and project funding agreements from organizations previously receiving Major Facilities funding are available on the Wake County website at wakegov.com/roomfoodtax

5.1 Authorizing Statute

Projects must be consistent with Chapter 458, Section 5 of the 1995 N.C. Session Laws included as Attachment 1 to this RFP.

Sec. 5. Chapter 594 of the 1991 Session Laws reads as rewritten:

"AN ACT TO AUTHORIZE WAKE COUNTY TO LEVY A ROOM OCCUPANCY TAX AND A PREPARED FOOD AND BEVERAGE TAX.

"Section 1. Intent. —This act authorizes Wake County to levy a room occupancy tax and a prepared food and beverage tax.

"Sec. 2. Definitions. —The definitions in G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the provisions of this act. The following definitions also apply in this act:

- (1) Centennial Authority. — The Centennial Authority created by the General Assembly under Part 4 of Article 20 of Chapter 160A of the General Statutes.
- (1a) Financing. —Debt service, lease payments, or any other obligations or means of supporting capital costs, together with any related reserve requirements.
- (2) Net proceeds. —The gross proceeds of the taxes levied pursuant to this act less any refunds and the cost to the county of administering and collecting the taxes as provided in Sections 10 and 11 of this act.
- (3) Prepared food and beverage. —Any food or beverage to which a retailer has added value or has altered its state (other than by cooling alone) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.
- (3a) Regional facility. — Defined in G.S. 160A-480.2.
- (4) Retailer. —A caterer or a retailer as defined in G.S. 105-164.3 as in effect on the effective date of this act.
- (5) Taxable establishment. —A hotel, motel, inn, tourist camp, or similar place that is subject to a room occupancy tax levied pursuant to this act and a retailer that sells prepared food or beverages and is subject to the prepared food and beverage tax levied pursuant to this act.
- (6) Undesignated proceeds. — Net proceeds distributed to the City of Raleigh and to Wake County and designated for use pursuant to Sections 10(b)(1)b., 10(b)(3), 11(1)b., 11(2), 12(1)a., 12(2)c. and d., 12(3)c. and d., and 13 of this act.

"Sec. 3. Sales and Use Tax Statutes. —The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this act to the extent they are not inconsistent with the provisions of this act.

"Sec. 4. Occupancy Tax. —The Wake County Board of Commissioners may, by resolution, levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to the State sales tax imposed under G.S. 105-164.4(a)(3). This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations when furnished in furtherance of their nonprofit purpose or to accommodations furnished to the same person for at least 90 consecutive days. Before levying the tax authorized in this section, the board of commissioners must hold a public hearing on the tax. Notice of the public hearing shall be advertised at least 10 days, but not more than 25 days, before the scheduled date of the hearing. The revision of this act by AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND TO ESTABLISH THE CENTENNIAL AUTHORITY does not affect the previous levying of the tax under this section, and no new hearings or resolutions are required.

Before a tax may be enacted pursuant to this section, Wake County and the City of Raleigh must enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General

Statutes. The agreement shall contain, at the minimum, the type and general location of all capital projects to be funded in any way by the proceeds of the tax levied under this section. The agreement shall also contain a preliminary schedule for the completion of any projects to be so funded. If the city and the county are unable to approve and execute the required agreement within three years after the effective date of this act, this section is repealed.

"Sec. 5. Prepared Food and Beverage Tax. The Wake County Board of Commissioners may, by resolution, levy a prepared food and beverage tax of up to one percent (1%) of the sales price of prepared food and beverages sold at retail for consumption on or off the premises by any retailer within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(1). Before levying the tax authorized in this section, the board of commissioners must hold a public hearing on the tax. Notice of the public hearing shall be advertised at least 10 days, but not more than 25 days, before the scheduled date of the hearing. The revision of this act by AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND TO ESTABLISH THE CENTENNIAL AUTHORITY does not affect the previous levying of the tax under this section, and no new hearings or resolutions are required.

Before a tax may be enacted pursuant to this section, Wake County and the City of Raleigh must enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes. The agreement shall contain, at the minimum, the type and general location of all capital projects to be funded in any way by the proceeds of the tax levied under this section. The agreement shall also contain a preliminary schedule for the completion of any projects to be so funded. If the city and the county are unable to approve and execute the required agreement within three years after the effective date of this act, this section is repealed.

"Sec. 6. ~~Exemptions.~~ Exemptions and Refunds. – (a) Exemptions. – The prepared food and beverage tax does not apply to the following sales of prepared food and beverages:

- (1) Prepared food and beverages served to residents in boarding houses and sold together on a periodic basis with rental of any sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-614.13 on the effective date of this act.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food and beverages served by any taxable establishment subject to the occupancy tax levied pursuant to this act if the charge for the prepared food or beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the taxable establishment.
- (5) Prepared food and beverages furnished without charge by an employer to any employee.
- (6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.

(b) Refunds. – The county shall refund to a nonprofit or governmental entity the prepared food and beverage tax paid by the entity on eligible purchases of prepared food and beverages. A nonprofit or governmental entity's purchase of prepared food and beverages is eligible for a refund under this subsection if the entity is entitled to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase. The time limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(b) and (d) apply to refunds to nonprofit entities; the time limitations, application requirements, penalties, and restrictions provided in

G.S. 105-164.14(c) and (d) apply to refunds to governmental entities. When an entity applies for a refund of the prepared food and beverage tax paid by it on purchases, it shall attach to its application a copy of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases. An applicant for a refund under this subsection shall provide any information required by the county to substantiate the claim.

"Sec. 7. Date of Levy. — A tax levied under this act shall become effective on the date specified in the resolution or ordinance levying the tax. The levy of the prepared food and beverage tax may not become effective before January 1, 1993.

"Sec. 8. Collection. — Every operator of a taxable establishment shall, on and after the effective date of the levy of a tax under this act, collect the tax. The tax shall be stated and charged separately from the rental charge or sales price, shall be shown separately on the taxable establishment's sales records, and shall be paid by the purchaser to the taxable establishment as trustee for and on account of the county. The tax shall be added to the rental charge or sales price and shall be passed on to and collected from the purchaser instead of being borne by the taxable establishment.

For the convenience of each retailer and to facilitate the administration of this act, the county shall determine the amount to be added to the sales price of all sales subject to the prepared food and beverage tax. The amounts shall be set forth in a bracket system and distributed to each retailer responsible for collecting the prepared food and beverage tax. The use of the bracket system does not relieve the retailer from the duty and liability of collecting and remitting to the local administrative authority an amount equal to the prepared food and beverage tax levied by the county.

"Sec. 9. Administration. — The county shall administer and collect the taxes levied pursuant to this act. Wake County may contract with the City of Raleigh to perform these functions.

The taxes levied pursuant to this act are due and payable to the county in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every taxable establishment liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return to the county. The county shall design, print, and furnish on request to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Returns filed with the county pursuant to this act are not public records ~~as defined by G.S. 132-1~~ and may not be disclosed except ~~as required by law.~~ in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

"Sec. 10. Distribution and Use of Proceeds of Occupancy Tax. — (a) Initial Deductions. — It is anticipated for allocation purposes that the annual net proceeds realized from the levy of the tax authorized by Section 4 of this act will be at least three million eight hundred fifteen thousand dollars (\$3,815,000). The county shall distribute the first three million eight hundred fifteen thousand dollars (\$3,815,000) of the net proceeds of the tax levied under Section 4 of this act as provided in this section; the county shall distribute any proceeds in excess of this amount as provided in Section 12 of this act. The county may deduct from the gross proceeds of the taxes collected pursuant to Section 4 of this act an amount not to exceed three percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the taxes. ~~For the first two years the tax levied under Section 4 of this act is in effect, before making the distributions provided in subsection (b), the county shall deduct from the net proceeds of the tax the sum of one hundred thousand dollars (\$100,000) in each fiscal year and shall remit this sum to Wake Technical Community College. After the first two years the tax levied under Section 4~~

~~of this act is in effect, before~~ Before making the distributions provided in subsection (b), the Board of Commissioners of Wake County may, in its discretion, deduct from the net proceeds of the tax the sum of one hundred thousand dollars (\$100,000) in each fiscal year and remit this sum to Wake Technical Community College. Wake Technical Community College must use funds remitted to it under this subsection only to support its ongoing program of training individuals in hotel and motel management and in food service. Funds received by Wake Technical Community College under this subsection that have not been expended for this purpose at the end of each fiscal year shall revert to Wake County for distribution in the following fiscal year pursuant to this section and Section 12 of this act.

(b) Monthly Distributions; Use. — The county shall make the distributions provided in this subsection by the twentieth day of the month following the month in which the tax is collected.

- (1) Distribution to Raleigh. After deducting the amounts provided in subsection (a), the county shall transfer to the City of Raleigh an amount equal to forty-five and twenty-five one hundredths percent (45.25%) of the remaining net proceeds of each monthly collection. The net proceeds received by Raleigh shall be applied in accordance with the following priorities.
 - a. The city may use the first six hundred eighty thousand dollars (\$680,000) of the net proceeds of the taxes levied under this act to fund the acquisition, construction, financing, debt servicing, maintenance, or operation of convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; to provide off-street parking facilities for use in conjunction with such facilities; and to fund visitor-related programs and activities, including cultural programs, events or festivals, and convention and visitor programs and activities of the Greater Raleigh Convention and Visitor Bureau.
 - b. The city shall use any additional net tax proceeds received only for (i) the acquisition, construction, renovation, financing, debt service, maintenance, and operation of expansions and additions to the Raleigh Civic Center Complex or similar facilities, and (ii) the construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in one or more reserve accounts by the city for future use in the range of activities allowed by this subsection. The city may make expenditures pursuant to this subdivision b. only after the city and county have agreed on the amount and purpose of the expenditure. The county's approval of an expenditure must be evidenced by a resolution adopted by the board of commissioners.
- (2) Distribution to Cary. After deducting the amount provided in subsection (a), the county shall transfer to the Town of Cary an amount equal to five percent (5%) of the remaining net proceeds of the tax levied under Section 4 of this act. The Town of Cary shall expend these proceeds for public relations and promotional activities for the town and for visitor-related programs and activities, including cultural programs, events, festivals, and other visitor-related programs.

- (3) Distribution to Wake County. After deducting the amount provided in subsection (a), the county shall retain an amount equal to thirty-four and seventy-five one hundredths percent (34.75%) of the remaining net proceeds of the tax levied under Section 4 of this act. Wake County may expend these proceeds only for the Raleigh Civic Center Complex or similar facilities or for construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in reserve accounts by the county for future use in the range of activities allowed by this subsection. The county may make expenditures pursuant to this subdivision only after the city and county have agreed on the amount and purpose of the expenditure. The city's approval of an expenditure must be evidenced by a resolution adopted by the city council.
- (4) Distribution to Greater Raleigh Convention and Visitor Bureau. After deducting the amounts provided in subsection (a), the county shall remit fifteen percent (15%) of the remaining net proceeds to the Greater Raleigh Convention and Visitor Bureau. The Greater Raleigh Convention and Visitor Bureau may expend these funds pursuant to the provisions of Section 15 of this act.

In the event that the amount distributed to the Greater Raleigh Convention and Visitor Bureau under this act is less than one million dollars (\$1,000,000) in a fiscal year, the city and the county shall each pay to the Greater Raleigh Convention and Visitor Bureau a sum, derived from its expected portion of the proceeds of the taxes authorized in this act, equal to one-half of the difference between one million dollars (\$1,000,000) and the amount received by the Bureau, so that the total revenue received by the Bureau equals at least one million dollars (\$1,000,000) in each fiscal year.

"Sec. 11. Distribution of Prepared Food and Beverage Tax. —It is anticipated for allocation purposes that the annual net proceeds realized from the levy of the tax authorized by Section 5 of this act will be at least four million five hundred thousand dollars (\$4,500,000). The county shall distribute the first four million five hundred thousand dollars (\$4,500,000) of the net proceeds of the taxes levied under Section 5 of this act as provided in this section; the county shall distribute any proceeds in excess of this amount as provided in Section 13 of this act.

The county may deduct from the gross proceeds of the taxes collected pursuant to Section 5 of this act an amount not to exceed three percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the taxes. The county shall make the distributions provided in this section by the twentieth day of the month following the month in which the tax is collected.

- (1) Distribution to Raleigh. After deducting the amount provided above, the county shall transfer to the City of Raleigh an amount equal to forty-seven and seventy-five one hundredths percent (47.75%) of the net proceeds of each monthly collection. The net proceeds received by Raleigh shall be applied in accordance with the following priorities.
 - a. The city may use the first six hundred eighty thousand dollars (\$680,000) of the net proceeds of the taxes levied under this act to fund the acquisition, construction, financing, debt servicing, renovation,

maintenance, or operation of convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; to provide off-street parking facilities for use in conjunction with such facilities; and to fund visitor-related programs and activities, including cultural programs, events or festivals, and convention and visitor programs and activities of the Convention and Visitor Bureau.

- b. The city shall use any additional net tax proceeds received only for (i) the acquisition, construction, renovation, financing, debt service, maintenance, and operation of expansions and additions to the Raleigh Civic Center Complex, and (ii) the construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in one or more reserve accounts by the city for future use in the range of activities allowed by this subsection. The city may make expenditures pursuant to this section only after the city and county have agreed on the amount and purpose of the expenditure. The county's approval of an expenditure must be evidenced by a resolution adopted by the board of commissioners.
- (2) Distribution to Wake County. The county shall retain an amount equal to thirty-seven and twenty-five one hundredths percent (37.25%) of the net proceeds of the tax levied under Section 5 of this act. Wake County may expend these proceeds only for the planning, acquisition, renovation, or construction of the Raleigh Civic Center Complex or similar facilities or for construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in reserve accounts by the county for future use in the range of activities allowed by this subsection. The county may make expenditures pursuant to this subdivision only after the city and county have agreed on the amount and purpose of the expenditure. The city's approval of an expenditure must be evidenced by a resolution adopted by the city council.
- (3) Distribution to Greater Raleigh Convention and Visitor Bureau. The county shall remit fifteen percent (15%) of the net proceeds of the tax levied under Section 5 of this act to the Greater Raleigh Convention and Visitor Bureau. The Greater Raleigh Convention and Visitor Bureau may expend these funds pursuant to the provisions of Section 15 of this act.

"Sec. 12. Future Revenue Allocations of the Occupancy Tax. — In the event that the annual net proceeds of the tax levied under Section 4 of this act exceed three million eight hundred fifteen thousand dollars (\$3,815,000) in a fiscal year, the additional proceeds will be distributed as follows:

- (1) Any net proceeds in excess of three million eight hundred fifteen thousand dollars (\$3,815,000) but less than four million one dollars (\$4,000,001) shall be allocated on the following basis:
 - a. Ninety-five percent (95%) to the City of Raleigh for the purposes set out in Section 10 herein.

- b. Five percent (5%) to the Town of Cary for the purposes set out in Section 10 of this act.
- (2) Any net proceeds above four million dollars (\$4,000,000) and up to four million five hundred thousand dollars (\$4,500,000) shall be distributed monthly on the following basis:
 - a. Twenty-five percent (25%) to the Raleigh Regional Convention and Visitor Bureau.
 - b. Five percent (5%) to the Town of Cary, at least one-half of which shall be used only for capital projects authorized under Section 10 or 11 of this act and the remainder of which shall be used for the purposes authorized in Section 10(b)(2) of this act.
 - c. Forty-seven and five-tenths percent (47.5%) to the City of Raleigh to be used for the purposes set out in Section 10 of this act.
 - d. Twenty-two and five-tenths percent (22.5%) to Wake County for any use related to any of the purposes for which any local government is authorized by this act to expend tax proceeds.
- (3) Any net proceeds above four million five hundred thousand dollars (\$4,500,000) shall be distributed monthly on the following basis:
 - a. Twenty-five percent (25%) to the Raleigh Regional Convention and Visitor Bureau.
 - b. Five percent (5%) to the Town of Cary, at least one-half of which shall be used only for capital projects authorized under Section 10 or 11 of this act and the remainder of which shall be used for the purposes authorized in Section 10(b)(2) of this act.
 - c. Thirty-five percent (35%) to the City of Raleigh for any lawful purpose authorized by this act.
 - d. Thirty-five percent (35%) to Wake County for any lawful purpose authorized by this act.

"Sec. 13. Future Revenue Allocations of the Prepared Food and Beverage Tax. — In the event that the annual net proceeds of the tax levied under Section 5 of this act exceed four million five hundred thousand dollars (\$4,500,000) in a tax year, the additional proceeds will be allocated according to the following schedule:

- (1) Any additional net proceeds up to six million five hundred thousand dollars (\$6,500,000) shall be divided between the City of Raleigh and Wake County. The city shall receive seventy-five percent (75%) of the additional net proceeds for use in activities allowed under Section 10 of this act while the county will receive twenty-five percent (25%) of the net proceeds for use in any lawful activity authorized by this act.
- (2) Any net proceeds in excess of six million five hundred thousand dollars (\$6,500,000) shall be divided between the City of Raleigh and Wake County. The city shall receive sixty percent (60%) of the additional net proceeds for use in any lawful purpose authorized by this act while the county shall receive the remaining forty percent (40%) of the additional net proceeds for use in any lawful purpose authorized by this act.

~~"Sec. 14. Restrictions on Certain Capital Projects. This section expires the earlier of (i) three years after the effective date of the first tax levied under this act or (ii) three and one-half years after the date this act is ratified. Notwithstanding any other provision of this act, the~~

~~proceeds of the taxes levied under this act may not be expended for the cost of any capital project other than (i) a coliseum to be built in conjunction with North Carolina State University at Raleigh, (ii) a civic center complex, (iii) a visual or performing arts center, or (iv) a children's museum, and off-street parking associated with these four projects. As used in this section, the term "cost" includes the cost of construction of a capital facility; planning, engineering, as well as architectural and consulting services, and any other expenses and charges relating to a new capital project.~~ Transfers to Centennial Authority. – (a) Construction of Regional Facility. – On or before June 30, 1996, the City of Raleigh and Wake County shall jointly transfer eleven million dollars (\$11,000,000) from undesignated proceeds to the Centennial Authority, and on or before June 30, 1997, the City of Raleigh and Wake County shall jointly transfer an additional eleven million dollars (\$11,000,000) from undesignated proceeds to the Centennial Authority. The proportions of this sum to be drawn from undesignated proceeds distributed to the City of Raleigh and from undesignated proceeds distributed to Wake County shall be determined by the city and the county by interlocal agreement entered into pursuant to Article 20 of Chapter 160A of the General Statutes. If the city and the county are unable to agree on the relative proportions to be drawn from net proceeds distributed to each of them, each shall transfer from undesignated proceeds distributed to it its proportional share based on the total undesignated proceeds distributed to it during the preceding 36-month period. The Centennial Authority shall use the funds distributed to it pursuant to this subsection only to fund all or part of the acquisition, construction, financing, and debt servicing of a regional facility to be located in the general vicinity of the Carter-Finley Stadium.

(b) Operation, Renovation, Maintenance, and Repair of Regional Facility. – During July of 1995, and each July thereafter, the City of Raleigh and Wake County shall each transfer to the Centennial Authority seven percent (7%) of the total undesignated proceeds distributed to it during the preceding fiscal year. The Centennial Authority shall use the funds transferred to it pursuant to this subsection only for enhancement of operating revenues of a regional facility and for planning, design, renovations, maintenance, and repairs to a regional facility.

"Sec. 15. Greater Raleigh Convention and Visitor Bureau.

- (1) When the board of county commissioners adopts a resolution levying the tax, the City of Raleigh shall take immediate action to adopt an ordinance establishing the Greater Raleigh Convention and Visitor Bureau. The Bureau shall be governed by a Board of Directors consisting of 12 members. This Bureau shall be the continuation of the existing Raleigh Convention and Visitor Bureau established pursuant to Chapter 850 of the Session Laws of 1985. At least three of the county's appointees shall reside in Raleigh and at least one of the county's appointees shall reside in Cary. The appointments shall be made as follows:
 - a. Five owners or operators of hotels, motels, or other taxable establishments, three of whom shall be elected by the Raleigh City Council and two of whom shall be elected by the Board of Commissioners of Wake County from a list of at least 10 nominees furnished by the Raleigh Hotel and Motel Association. The list of nominees shall include the names of at least three restaurant owners or operators.
 - b. Two representatives of tourist or convention related businesses, one appointed by the Raleigh City Council and one by the Wake County Board of Commissioners.

- c. One member nominated by the Greater Raleigh Chamber of Commerce and appointed by the Wake County Board of Commissioners.
- d. Four at-large members, two appointed by the City of Raleigh and two appointed by Wake County.

Members shall serve according to the ordinances and regulations of the city concerning service on city boards and commissions, except that members appointed by Wake County shall serve according to the ordinances and regulations of Wake County concerning service on county boards and commissions.

- (2) Powers and Duties of Bureau. The Greater Raleigh Convention and Visitor Bureau may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions. The Bureau shall prepare an annual budget based on anticipated revenues and shall submit the budget to the Raleigh City Manager and Wake County Manager for processing and approval through the regular budget procedures of the city and the county. The Bureau shall make quarterly reports to the Raleigh City Council and the Wake County Board of Commissioners detailing its revenues, expenditures, and activities. The city or the county may audit the Bureau's financial records upon reasonable notice to the Bureau. At the end of each fiscal year, any funds of the Bureau not expended, or obligated or reserved as approved by the Raleigh City Council and the Wake County Board of Commissioners, shall be remitted equally to the City of Raleigh and Wake County for use in accordance with Section 10 of this act.

"Sec. 16. Penalties. —A person, firm, corporation, or association who fails or refuses to file a return and pay the tax due under this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission up to a maximum of two thousand dollars (\$2,000) for each return. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The Wake County Board of Commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this section. act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Wake County Board of Commissioners has the same authority to waive the penalties for a tax levied under this act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

"Sec. 17. Authority to Contract. —Wake County and each municipality located in Wake County may contract with any person, agency, association, or nonprofit corporation to undertake or carry out the activities and programs for which the proceeds may be expended. All contracts entered into pursuant to this subsection section shall require an annual financial audit of any funds expended and a performance audit of contractual obligations.

"Sec. 18. Effect on existing taxes. —The levy of a tax pursuant to this act repeals the authority of the county or a unit of local government in Wake County to enact an occupancy tax under any other local act.

"Sec. 19. Repeal. —The taxes levied pursuant to this authority may be repealed by the county by enacting an ordinance of repeal. No such repeal shall be effective until at least 180 days after the passage of the repeal ordinance. Repeal of a tax levied under this act does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it

affect a right to a refund of a tax that accrued before the effective date of the repeal.
"Sec. 20. This act is effective upon ratification."

Wake County Room Occupancy and Prepared Food and Beverage Operating Principles

Purpose of Principles: The Operating Principles are established to articulate the values of the community and stakeholders related to use of Wake County Room Occupancy and Prepared Food and Beverage Revenues. These Principles were developed by community stakeholders in March 2017. The stakeholders identified all of the listed Principles as important and therefore, the Principles are not listed in any rank or order.

- A. Prioritize use of funds for projects that drive measurable, regular overnight visitation or positive return on investment (ROI)
- B. Support and promote the on-going capital expenditure program and expansion of existing investments in major facilities to keep them current, relevant and competitive in market
- C. Comply with all requirements of the existing enabling legislation
- D. Ensure project investments are secured by solid long-term plans, both operational and financial, that demonstrate viability and sustainability
- E. Utilize high standards of fiscal accountability in planning and managing the use of tax revenues:
 - a. Fulfill existing obligations before entering into significant new financial commitments
 - b. Maintain long-term, conservative financial forecasting
- F. Support investments that complement economic development efforts and enhance quality of life experiences for visitors, newcomers and long-time residents
- G. Create sports, arts and cultural opportunities, through leveraging community investments and partnerships, that benefit residents and enhance tourism offerings
- H. Support a project investment mix that considers location and types of uses (sports, cultural, arts, convention, etc.)
- I. Engage stakeholders representing varying entities, jurisdictions and uses
- J. Ensure that investments support the long-term vision of Wake County and its cities and towns as a tourism destination
- K. Provide a regular funding source for eligible projects that require a smaller scale investment
- L. Support investments that consider emerging arts, sports and cultural experiences and unmet needs

Attachment 3. Audit Form: Receipts and Expenditures

Instructions: List all receipts and expenditures (including money from service fees; from federal, state, and local governments; and from private contributions/donations.)

Organization Name:

Organization Tax ID#:

Organization Fiscal Year Ended:

a. Receipts:							
Funding Agency		Administration and Fundraising (Nonprogram costs)	Program 1	Program 2	Program 3	Program 4	Contract #
Federal							
State							
Wake County							
Other Local Government							
Private							
Other							
Admin/Program Total		-	-	-	-	-	
Total Receipts (admin and all programs)	-						

b. Expenditures:							
Category	Total All Programs and Admin	Administration and Fundraising (Nonprogram costs)	Program 1	Program 2	Program 3	Program 4	
Personnel	-						
Contracted Services	-						
(a) Total Personnel/Contracted Svcs Costs:	-	-	-	-	-	-	
Office Supplies & Materials	-						
Service Related Supplies	-						
(b) Total Supplies and Materials Costs:	-	-	-	-	-	-	
Travel	-						
Communications & Postage	-						
Utilities	-						
Printing & Binding	-						
Repair & Maintenance	-						
Meeting/Conference Expense	-						
Employee Training (no travel)	-						
Classified Advertising	-						
Board Meeting Expense	-						

Attachment 3. Audit Form: Receipts and Expenditures

Category	Total All Programs and Admin	Administration and Fundraising (Nonprogram costs)	Program 1	Program 2	Program 3	Program 4
(c) Total Non-Fixed Operating Expense:	-	-	-	-	-	-
Office Rent (Land, Buildings, etc.)	-					
Furniture Rental	-					
Equipment Rental (Phones, Computers, etc.)	-					
Vehicle Rental	-					
Dues & Subscriptions	-					
Insurance & Bonding	-					
Books/Library Reference Materials	-					
Mortgage Principal, Interest and Bank Fees	-					
(d) Total Fixed Charges & Other Expenses:	-	-	-	-	-	-
Buildings & Improvements	-					
Leasehold Improvements	-					
Furniture/Non-Computer Equip., \$500+ per item	-					
Computer Equipment/Printers, \$500+ per item	-					
Furniture/Equip., under \$500 per item	-					
(e) Total Property & Equipment Outlay:	-	-	-	-	-	-
Purchase of Services	-					
Contracts with Service Providers	-					
Stipends/Scholarships/Bonuses/Grants	-					
(f) Total Services/Contracts	-	-	-	-	-	-
Other Expenses (List):	-					
	-					
	-					
(g) Total Other Expenses	-	-	-	-	-	-
Total Expenditures:	-	-	-	-	-	-

Attachment 4: Visitor Estimates and Return on Investment

Definitions:

- a. **Wake County resident** - visitor from within Wake County
- b. **Day Visitor** - Visitor from outside of Wake County that doesn't spend the night
- c. **Overnight Visitor** - Visitor from outside 50 mile radius of proposed project that spend the night (include total number of nights if visitor will stay multiple nights)

Hotel Room Rate = \$102/per night

Meal Rate on Day Trip = \$23.40/per day **Meal Rate on Overnight Trip** = \$26.10/per day

Visitor Estimates, Economic Impact and Taxes Collected

1. Estimated Wake County residential visitors (annual) = _____

Estimated Food and Beverage Spending and Taxes Collected				
	Number of Visitors		Meal Rate	Meal Spending
2. Estimated Day Visitors (annual) =	_____	X	\$23	= \$ _____ -
3. Estimated Overnight Visitors (annual) =	_____	X	\$26	= \$ _____ -
		4. Total Meal Spending =	\$ _____ -	X 1% Food & Bev Tax = \$ _____ -

Estimated Hotel/Motel Spending and Taxes Collected						
	Number of ON Visitors	Party Size	Number of Rooms	Room Rate		Room Spending
5. Estimated Overnight Rooms (annual) =	_____	÷ 1.69	= _____ 0	X \$102	=	\$ _____ -
6. Total Room Spending =						\$ _____ - X 6% Occupancy tax = \$ _____ -

7. Return on Investment based on taxes collected (County funding/total taxes collected) = _____ (in years)