

**NORTH CAROLINA
DURHAM COUNTY**

SERVICE CONTRACT

THIS CONTRACT is made, and entered into this the 1st day of July, 2024, by and between the **COUNTY of DURHAM**, a political subdivision of the State of North Carolina, (hereinafter referred to as “COUNTY”), and **MADE IN DURHAM**, a corporation duly authorized to do business in the state of North Carolina, (hereinafter referred to as “CONTRACTOR”).

For and in consideration of mutual promises to each as herein after set forth, the parties hereto do mutually agree as follows:

- 1. SCOPE OF SERVICES.** CONTRACTOR hereby agrees to provide the services and/or materials under this contract pursuant to the provisions and specifications identified in “Attachment 1” (hereinafter collectively referred to as “Services”). Attachment 1 is hereby incorporated herein and made a part of this contract. In the case of a conflict between this base contract and any attachment, the terms of this base contract shall control. Time is of the essence with respect to all provisions of this contract that specify a time for performance.

The COUNTY will perform on-going contract monitoring to ensure full compliance with the terms of this contract. CONTRACTOR agrees to cooperate with the COUNTY in its monitoring process and provide documentation and/or information requested during the term of this Agreement for the purpose of monitoring the services provided by CONTRACTOR.

- 2. EFFECTIVE DATE AND TERM OF CONTRACT.** The “effective date” of this Contract shall be the date first set forth above in the preamble to this Contract, irrespective of the date of execution by the parties. The first date written above is **July 1, 2024**. All renewal or non-renewal periods or deadlines stated in this Contract, if any, shall be calculated based on the “effective date” indicated above.

The Term of this contract for services is from July 1, 2024 to June 30, 2025 unless sooner terminated as provided herein.

- 3. PAYMENT TO CONTRACTOR.**

3a. CONTRACTOR shall receive from COUNTY an amount not to exceed **Two-Hundred and Fifty Thousand Dollars (\$250,000.00)** as full compensation for the provision of Services. COUNTY agrees to pay CONTRACTOR at the rates specified for Services performed to the satisfaction of the COUNTY, in accordance with this contract, and Attachment 1. Unless otherwise specified, CONTRACTOR shall submit an itemized invoice to COUNTY by the end of the month during which Services are performed. A Funds Reservation number may be assigned to encumber the funds associated with this contract and must appear on all invoices and correspondence mailed to COUNTY. Payment will be processed promptly upon receipt and approval of the invoice by COUNTY.

3b. The Parties agree and acknowledge that any and all payments described herein are contingent upon prior budgetary approval by the Durham County Board of Commissioners (the Board) for the fiscal year during which services required by this contract are rendered. The Parties agree and acknowledge that if this contract is signed prior to budgetary approval being granted, that COUNTY may terminate the Contract if the requisite approval is not given, pursuant to Section 8.3 below.

- 4. INDEPENDENT CONTRACTOR.** COUNTY and CONTRACTOR agree that CONTRACTOR is an independent contractor and shall not represent itself as an agent or employee of COUNTY for any purpose in the performance of CONTRACTOR’s duties under this Contract. Accordingly, CONTRACTOR shall be responsible for payment of all federal, state and local taxes as well as business license fees arising out of

CONTRACTOR's activities in accordance with this Contract. For purposes of this contract taxes shall include, but not be limited to, Federal and State Income, Social Security and Unemployment Insurance taxes.

CONTRACTOR, as an independent contractor, shall perform the Services required hereunder in a professional manner and in accordance with the standards of applicable professional organizations and licensing agencies.

5. CONFIDENTIALITY, DATA SECURITY, TRAINING AND NON-DISCLOSURE. CONTRACTOR acknowledges and agrees that, in the course of its engagement with COUNTY, CONTRACTOR or its licensors, subcontractors or suppliers in connection with the services to be rendered under this Contract may receive or have access to "confidential information" or "personal identifiable information".

CONTRACTOR or its licensors, contractors or suppliers has obtained or may need to obtain confidential information from the COUNTY in connection with the provision of services to the COUNTY or the discussions of such a proposed relationship.

The COUNTY and CONTRACTOR desire to stipulate and agree that any disclosure of confidential information in connection with the provision of services or the discussion of such a proposed relationship has occurred or will occur under circumstances and conditions that will protect and preserve the confidentiality of the information.

5.1 DEFINITIONS. As used in this Contract, the following terms shall have the meanings set forth below:

Confidential Information. The term "Confidential Information" shall mean any information, in any medium, whether written, oral or electronic, not generally known in the relevant trade or industry, which falls within any of the following general categories:

- a. Trade Secrets. For purposes of this Contract, trade secrets consist of information of the COUNTY or CONTRACTOR or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
- b. Highly Restricted Information. CONTRACTOR acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) CONTRACTOR will also comply with any more restrictive instructions or written policies that may be provided by the COUNTY from time to time to protect the confidentiality of Highly Restricted Information, as defined below:
 1. Information of the COUNTY or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."
 2. Information relating to criminal investigations conducted by the COUNTY, and records of criminal intelligence information compiled by the COUNTY.
 3. Information contained in the COUNTY's personnel files, as defined by NCGS §153A-98. This consists of all information gathered by the COUNTY about employees, except for that information which is a matter of public record under North Carolina law.
 4. Citizen or employee social security numbers collected by the COUNTY.

5. Computer security information of the COUNTY, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
6. Local tax records of the COUNTY that contained information about a taxpayer's income or receipts.
7. Any attorney/client privileged information disclosed by either party.
8. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.
9. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.
10. Protected Information (PHI), as defined in the Insurance Portability and Accountability Act (HIPAA), and any other information that is designated as confidential under federal or state law.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential information shall include information disclosed or revealed within one year prior to the date of this Contract.

Personal Identifiable Information. The term "Personal Identifiable Information" shall mean information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked to a specific individual.

5.2 RESTRICTIONS. CONTRACTOR shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

- a. Not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the COUNTY in writing.
- b. Not directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an employee, agent, subcontractor or CONTRACTOR of the COUNTY or CONTRACTOR having a need to know such Confidential Information for purpose or performing work contemplated by this Contract between the COUNTY and CONTRACTOR, and who has executed a confidentiality agreement incorporating substantially the form of this Confidentiality and Non-Disclosure Agreement. CONTRACTOR shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted Information to any third party without the County's prior written consent.
- c. Not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written contracts between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
- d. Not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
- e. Use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.

- f. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, CONTRACTOR shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
- g. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the COUNTY or destroyed upon satisfaction of the purpose of the disclosure of such information.
- h. Restrict employee access to Confidential Information to those employees having a need to know for purposes of their jobs.
- i. Take all reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract.

5.3 EXCEPTIONS. The COUNTY agrees that CONTRACTOR shall have no obligation with respect to any Confidential Information that CONTRACTOR can establish was:

- a. Already known to CONTRACTOR prior to being disclosed by the COUNTY;
- b. Or becomes publicly known through no wrongful act of CONTRACTOR;
- c. Rightfully obtained by CONTRACTOR from a third party without similar restriction and without breach hereof;
- d. Used or disclosed by CONTRACTOR with the prior written authorization of the COUNTY;
- e. Disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, CONTRACTOR shall first give to the other party notice of such requirement or request;
- f. Disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued Subpoena, provided that CONTRACTOR shall take reasonable steps to obtain an agreement or protective order providing that this Agreement will be applicable to all disclosures under the court order or subpoena.

5.4 REMEDIES. CONTRACTOR acknowledges that the unauthorized disclosure of the Confidential Information will diminish the value of the COUNTY's proprietary interests therein. Accordingly, it is agreed that if CONTRACTOR breaches its obligations hereunder, the COUNTY shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

5.5 DATA SECURITY. The CONTRACTOR shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations and rules.

The CONTRACTOR shall report a suspected or confirmed security breach to the COUNTY Department within twenty-four (24) hours after the breach is first discovered, provided that the CONTRACTOR shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered.

If any applicable Federal, State, or local law, regulation, or rule requires the CONTRACTOR to give written notice of a security breach to affected persons, the CONTRACTOR shall bear the cost of the notice.

5.6 TRAINING AND NON-DISCLOSURE. Upon request by the COUNTY, CONTRACTOR agrees to ensure compliance and the security of “confidential information” and “personal identifiable information”, by having its employees, agents and subcontractors take online privacy and security awareness training provided by COUNTY, by way of an internet link or some other electronic method to be provided by COUNTY. CONTRACTOR, at the request of COUNTY, shall execute a non-disclosure agreement if, and when submitted by COUNTY.

5.7 PUBLIC RECORDS. It is expressly understood that as a governmental entity, the COUNTY is subject to the North Carolina Public Records Act and information related to this contract may be requested pursuant to same. In response to any request for information which has been properly labeled as a Trade Secret or Confidential Information, the COUNTY will assert that those are exempt as a Trade Secret or Confidential Information under that Act. Proper labeling will include annotating the bottom of any written document (on the cover and each individual page containing such information) or e-mail with the following footer in at least 12-point bold face type “**Confidential Information**”. Any material labeled as Confidential Information constitutes a representation by CONTRACTOR that it has made a reasonable effort in good faith to determine that such material is, in fact, confidential as defined in N.C. Gen. Stat. § 132-1.2. The COUNTY has no duty or obligation to limit access to information which is not explicitly marked in accordance with this provision.

Should the requestor initiate legal action to compel production, the COUNTY shall notify CONTRACTOR of the action and offer it the opportunity to intervene and defend same. The COUNTY shall have no duty to defend the action and CONTRACTOR agrees to fully indemnify COUNTY for all costs related to such litigation. Should the COUNTY receive a subpoena or court order for the protected information, it will contact CONTRACTOR and afford it the opportunity to intervene in the action under the same terms and conditions as noted above.

6. INDEMNIFICATION. To the fullest extent permitted by law, COUNTY hereby reserves the right to recover legal expenses including attorney fees, litigation expenses and court costs as well as actual damages or losses suffered by COUNTY, if CONTRACTOR is found to be a proximate cause of damages or losses suffered by COUNTY, resulting from CONTRACTOR’s performance during the execution of this Contract.

7. INSURANCE. CONTRACTOR shall procure and maintain for the duration of the contract the following insurance coverage from an insurance company(s) possessing a rating of A-VII or higher from the A.M. Best Company and licensed to do business in North Carolina. All of the policies required of the CONTRACTOR shall contain a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the COUNTY. In the event CONTRACTOR’S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning “waiver of subrogation” this contract shall govern. CONTRACTOR shall advise the COUNTY of any cancellation, non-renewal, or material change in any policy within ten (10) days of notification of such action and provide updated certificates of insurance evidencing renewals within fifteen (15) days of expiration. CONTRACTOR’S insurance shall be primary and any insurance or self-funded liability programs maintained by the COUNTY shall not contribute with respect to the CONTRACTOR’s insurance. COUNTY shall not be listed as an additional insured on any Insurance Policy or Certificate of Insurance of the CONTRACTOR. In the event CONTRACTOR’S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning “additional insured” this contract shall govern.

7.1 Commercial General Liability: Insurance Services Office (ISO) Form CG 00 01 on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than **\$1,000,000** per occurrence and **\$2,000,000** aggregate.

7.2 Commercial Automobile Liability: ISO Form CA 00 01 covering any auto with limit not less than **\$1,000,000** per accident for bodily injury and property damage.

7.3 Worker’s Compensation and Employers Liability: as required by The State of North Carolina, with statutory limits, and Employers Liability Insurance with a limit of no less than **\$1,000,000** per occurrence.

By requiring insurance herein, the COUNTY does not represent that coverage and limits will necessarily be adequate to protect CONTRACTOR, and such coverage and limits shall not be deemed as a limitation on CONTRACTOR’s liability under the indemnities granted to the COUNTY in this Contract. CONTRACTOR shall provide the COUNTY a valid certificate of insurance, in advance of the performance of any work, exhibiting coverage required. CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

The failure of the COUNTY at any time to enforce the insurance provisions, to demand such certificates of insurance, or to identify a deficiency shall not constitute a waiver of those provisions, nor reduce obligations of the CONTRACTOR to maintain such insurance or to meet its obligations under the indemnification provisions. Notwithstanding the foregoing, nothing contained in this section shall be deemed to constitute a waiver of the governmental immunity of the COUNTY, which immunity is hereby reserved to the COUNTY. COUNTY reserves the option to require additional or increased insurance coverages if, in the opinion of COUNTY, such coverage is necessary to properly manage the risk related to this contract. COUNTY shall give notice to CONTRACTOR of any such requirements prior to the execution of this contract, or within such reasonable time as COUNTY becomes aware of the need for such additional or increased coverages.

8. TERMINATION.

8.1 EVENT OF DEFAULT. Any one or more of the following acts or omissions of the Contractor shall constitute an Event of Default hereunder:

- a. Failure to perform the Services satisfactorily or on schedule,
- b. Failure to submit any report required hereunder; and/or
- c. Failure to perform any other covenant, term, or condition of this Agreement.

Upon the occurrence of an Event of Default, the COUNTY may take one or more, or all of the following actions:

- a. Give Contractor written Notice of the Event of Default, specifying the Event of Default and requiring it to be remedied within, in the absence of greater or lesser specification of time, seven (7) calendar days from the date of the notice; and if the Event of Default is not timely remedied, terminate the agreement, effective two (2) days after giving the Contractor written Notice of Termination; and/or
- b. Deduct any and all expenses incurred by the COUNTY for damages caused by the Contractor’s Event of Default; and/or
- c. Treat the agreement as breached and pursue any of its remedies at law or in equity, or both, including damages and specific performance.

8.2 TERMINATION FOR CONVENIENCE. This Contract may be terminated, without cause, by either party upon thirty (30) days written notice to the other party. This termination notice period shall begin upon receipt of the Notice of Termination.

8.3 CONTINGENT FUNDING/NON-APPROPRIATIONS. If, at any time after the execution of this Contract, the required funding for this contract is not approved by the Durham County Board of Commissioners, COUNTY may terminate this contract immediately. COUNTY shall notify CONTRACTOR of the non-approval and termination within 30 days of the Board's decision.

Termination of this Contract, under either section 8.1, 8.2, or 8.3 shall not form the basis of any claim for loss of anticipated profits by either party.

9. COUNTY NOT RESPONSIBLE FOR EXPENSES. COUNTY shall not be liable to CONTRACTOR for any expenses paid or incurred by CONTRACTOR, unless otherwise agreed in writing. CONTRACTOR shall provide the necessary labor, security, permits and safety measures required to provide Services hereunder.

10. EQUIPMENT. CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide Services hereunder, unless otherwise agreed in writing.

11. COMPLIANCE WITH LAWS. CONTRACTOR shall abide by all statutes, rules, regulations, laws, and executive orders Federal, State and Local as they relate to, but are not limited to, (i) services in general, (ii) payment of employees, subcontractors and agents, (iii) the Fair Labor Standards Act and (iv) the Wage and Hour Division. In the event CONTRACTOR is determined by the final order of a court or appropriate agency to be in violation of any Federal, State or Local statute, rule, regulation, law or executive order or this provision, this Contract may be canceled, terminated or suspended in whole or in part by COUNTY and CONTRACTOR may be declared ineligible for further COUNTY contracts.

12. HEALTH AND SAFETY. CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs required by OSHA and all other regulatory agencies while providing Services under this Contract.

13. NON-DISCRIMINATION IN EMPLOYMENT. CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, race, sex, sexual orientation, gender identity or expression, creed, national origin or ancestry, marital or familial status, pregnancy, military status, religious belief or non-belief, or disability. CONTRACTOR shall take affirmative action to ensure that qualified applicants are employed and that employees are treated fairly and legally during employment with regard to their age, race sex, sexual orientation, gender identity or expression, creed, national origin or ancestry, marital or familial status, pregnancy, military status, religious belief or non-belief, or disability. In the event CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be canceled, terminated or suspended in whole or in part by COUNTY, and CONTRACTOR may be declared ineligible for further COUNTY contracts. **CONTRACTOR certifies that CONTRACTOR shall abide by Durham County Ordinance Article I, Sections 15-1 through 15-85. Failure to abide by said Ordinance is a breach of this contract and grounds for terminating the contract for cause and without fault or liability to COUNTY.**

14. EMPLOYMENT ADVERTISING REQUIREMENTS. CONTRACTOR shall post local job openings, in connection with this contract, with the NC Works Web Site (instructions are located at: <https://www.ncworks.gov/vosnet/Privacy/RegistrationAgreement.aspx?t=emp&page=1>) throughout the term

of this Agreement; provided that the foregoing requirement does not limit CONTRACTOR'S ability to advertise and/or otherwise post job openings with other organizations or media outlets.

15. E-VERIFY. As a condition of payment for services rendered under this agreement, CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if CONTRACTOR provides the services to the COUNTY utilizing a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as well. CONTRACTOR shall verify, by affidavit, compliance of the terms of this section upon request by the COUNTY.

16. AFFORDABLE CARE ACT REQUIREMENTS (Applicable Only to Staffing Agencies). Beginning in 2015, employers with 100 or more full-time equivalent employees (50 or more beginning in 2016) must offer health insurance coverage that is affordable and provides "minimum value" to full-time employees and dependents as defined by the Patient Protection and Affordable Care Act or face penalties. Staffing companies under contract with Durham COUNTY are required to provide affordable minimum essential coverage as defined by the Patient Protection and Affordable Care Act and to indemnify Durham COUNTY against any 4980H penalties that result from their failure to provide the appropriate coverage. By signing this contract as a Staffing Company, CONTRACTOR shall comply with the aforementioned health insurance coverage requirements of the Affordable Care Act and indemnify the COUNTY against any associated 4980H penalties. **Please complete Exhibit A and return with this contract.**

17. SECURITY BACKGROUND CHECKS. The Contractor is responsible for requesting and paying for criminal history checks on all individuals providing services under this contract who will be obtaining COUNTY identification badges and allowed unescorted access to COUNTY facilities. Background checks can be provided by any vendor, or from a North Carolina State agency, providing that the criminal history check is done nationwide. The Sheriff's Office will conduct background investigations for those Contractor employees who will be working at the Courthouse or Detention Center. A criminal history will not automatically disqualify a Contractor employee from employment on a COUNTY contract unless explicitly mandated by law.

The Contractor will send the results of the background checks, prior to commencing work at Durham County Government, to their County point of contact who will provide them to the Durham County Security Manager. The Security Manager will individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in Durham County buildings. The Security Manager will consult the Legal Office, as needed, on any negative determinations. The Security Manager will notify the Contractor's County point of contact of the results of the review. Contractor can appeal a negative determination by the Security Manager to the County Manager or the County Manager's designee for final disposition. Appeals need to be submitted in writing to the County point of contact within 30 days of notice of a decision to remove or deny an individual from working the County contract due to adverse information in the background check.

This information shall be updated annually by the Contractor, 90 days prior to the renewal or extension of the contract and submitted to their County point of contact who will provide them to the Durham County Security Manager. Personnel without a currently approved background check will have their access to those buildings disabled.

Additional background screening may be necessary at specific COUNTY buildings. The Contractor shall provide names of all individuals in the Contractor communications log and to the COUNTY point of contact. This information will be reviewed annually.

For those Contractor employees who will be working at the Courthouse or Detention Center, the Sheriff's Office will make the security determination. The Contractor will provide the results of their background check to the

Major for Support Services who will conduct an additional investigation and then individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in the Courthouse or Detention Facility. Contractor can appeal a negative determination to the Chief Deputy for final disposition. Appeals need to be submitted in writing to the Chief Deputy within 30 days of notice of a decision to remove or deny an individual from working the contract due to adverse information in the background check. While an appeal is pending, the employee will not be allowed access to the Courthouse or Detention Facility.

This information will be updated by the Contractor and submitted to the Sheriff's Office annually, 90 days prior to the renewal or extension of the contract. Personnel without a currently approved background check will have their access to those buildings disabled.

18. AUDIT RIGHTS. For all Services being provided hereunder, COUNTY shall have the right to inspect, examine, and make copies of any and all books, accounts, invoices, records and other writings relating to the performance of the Services. Audits shall take place at times and locations mutually agreed upon by both parties. Notwithstanding the foregoing, CONTRACTOR must make the materials to be audited available within one (1) week of the request for them.

19. DISPUTE RESOLUTION PROCEDURE. To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between COUNTY and the CONTRACTOR, arising from this Agreement or the services and/or materials being provided by the CONTRACTOR, shall be sent to the Durham COUNTY Manager who shall appoint a qualified mediator to address the issue. Such request shall be submitted to the COUNTY Manager in writing within ten (10) days of the claim or dispute. Upon receipt of a timely written claim, the Manager, or the County Manager's designee, shall notify the Mediator who will conduct a mediation and notify the CONTRACTOR in writing of the decision within forty-five (45) calendar days from the date of the submission of the claim or dispute, unless the Mediator requires additional time to gather information or allow the parties to provide additional information. The Mediator's orders, decisions and decrees shall be non-binding. Mediation, pursuant to this provision, shall be a pre-condition to initiating litigation concerning the dispute. During the pendency of any dispute and after a determination thereof, parties to the dispute shall act in good faith to mitigate any potential damages including utilization of schedule changes and alternate means of providing services and/or materials. The costs of mediation shall be divided equally between parties to the dispute.

The mediation session shall be private and shall be held in Durham COUNTY, North Carolina. Mediation under this provision shall not be the cause for a delay of services and/or materials being provided which is the focus of the dispute.

If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the COUNTY of Durham and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this provision, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

20. EXISTENCE. CONTRACTOR warrants that it is a corporation or otherwise legal entity duly organized, validly existing, and in good standing under the laws of the State of North Carolina and is duly qualified to do business in the State of North Carolina and has full power and authority to enter into and fulfill all the terms and conditions of this contract.

21. CORPORATE AUTHORITY. By execution hereof, the person signing for CONTRACTOR below certifies that he/she has read this contract and that he/she is duly authorized to execute this contract on behalf of the CONTRACTOR.

22. SUCCESSORS AND ASSIGNS. CONTRACTOR shall not assign its interest in this Contract without the written consent of COUNTY. CONTRACTOR has no authority to enter into contracts on behalf of COUNTY.

23. NOTICES. All notices which may be required by this contract or any rule of law shall be effective when received by certified mail sent to the following addresses:

**COUNTY OF DURHAM
ATTN: PURCHASING DEPARTMENT
7TH FLOOR, 201 EAST MAIN STREET
DURHAM, NORTH CAROLINA 27701**

**MADE IN DURHAM
ATTN: CASEY STEINBACHER
201 W MAIN ST SUITE 211
DURHAM, NORTH CAROLINA 27701**

24. HEADINGS, WAIVER. The subject headings of the sections are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This contract shall be deemed to have been drafted by both parties and no interpretation shall be made to the contrary. An alleged waiver of a term of this Agreement by COUNTY, whether express or implied, on one occasion shall not be construed to operate as a waiver on other occasions or other provisions. If County fails to require strict performance of a term of this Agreement, fails to exercise a remedy for a breach of this Agreement, or fails to reject a payment during a breach of this Agreement, that failure does not constitute a waiver of that term or breach.

25. GOVERNING LAW. This Contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Contract shall be brought in the General Court of Justice in the COUNTY of Durham and the State of North Carolina.

26. REQUIRED PROVISIONS FOR CONTRACTS/AGREEMENTS/GRANTS UTILIZING FEDERAL FUNDS. Pursuant to the Federal Uniform Guidance Appendix II to 2 CFR Part 200, if Federal Funds are involved in this Contract/Agreement/Grant Agreement, by executing this Contract/Agreement/Grant Agreement, the Contractor/Vendor/Grantee, certifies that it agrees to and is in compliance with the provisions specified in Exhibit B – Federal Uniform Guidance Contract Provisions Certification.

27. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PROGRAM. It is the policy of the County to provide minorities and women-owned businesses equal opportunity to participate in all aspects of the County's contracting programs, including but not limited to, the procurement of construction, goods and services consistent with law. The County has established an ordinance and implements an MWBE Program based on the ordinance, that promotes, increases and works towards eradicating the underutilization of minorities and women-owned businesses in the County's contracting programs.

28. ENTIRE CONTRACT. This contract, including Attachment 1, and if applicable Exhibit A and Exhibit B, shall constitute the entire understanding between COUNTY and CONTRACTOR and shall supersede all prior understandings and agreements relating to the subject matter hereof and may be amended only by written mutual agreement of the parties.

IN TESTIMONY WHEREOF, the parties have expressed their agreement to these terms by causing this Service Contract to be executed by their duly authorized officer or agent.

COUNTY OF DURHAM

By: _____

Print Name/Title: _____

Date of Signature: _____

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

Durham County Chief Financial Officer

CONTRACTOR

By: _____

Print Name/Title: _____

Date of Signature: _____

ATTACHMENTS to follow

ATTACHMENT 1 SCOPE OF SERVICES

This Scope of Services is an integral part of the contract between the County of Durham (hereinafter referred to as “County”), and Made in Durham. (hereinafter referred to as “MID”), which contract is dated which is dated July 1, 2024. MID hereby agrees to provide services and/or materials to the County pursuant to the provisions set forth below.

I. Responsibilities. Areas of primary responsibility include:

Made in Durham’s 2024-2025 contract with the County will continue to fund the larger Education to Career Systems work of the organization. All Goals noted under this Scope of Work, while unique to the County Contract, will also continue to support the Scope of Work for BULLS ARPA and BBB funding that are detailed separately.

While there is continued success and support for the BULLS Biotech Academy initiative, MID’s board remains committed to the constant analysis, oversight and accountability role it plays in Durham’s education to career system work. MID plays a vital role in incubating the BULLS Academy concept, but with an eye to eventually integrating the initiative into the current system as a successful and sustainable pathway for young adults of color in Durham. With the lessons learned in this incubation process, MID is constantly analyzing the system to identify gaps, barriers and misalignment situations that need to be addressed to continue creating more effective opportunities for Durham youth and young adults, and more attractive prospective talent for Durham employers.

Made in Durham Goal One: Systems Analysis

In the 2024-2025 contract year, MID will be actively engaged in three **system analysis** activities. These include:

1. Updated Landscape Analysis:

As part of MID’s original launch, a landscape analysis of the existing system was completed to assist in identifying the misalignment, gaps and barriers that contributed to the lack of economic mobility and workforce quality and quantity. The results of this landscape guided MID’s early priorities and initiatives. While economic mobility continues to be at the forefront of MID’s mission and work, COVID 19 has significantly reshaped the landscape of organizations and initiatives actively engaged in this work. This has resulted in the launch or re-creation of numerous community initiatives and partnerships aimed at supporting economic opportunity in cooperation with our key educational institutions: Durham Public Schools and Durham Technical Community College. At the same time, corporate stakeholders have started to look more in-depth at Durham’s workforce pipeline as they face tremendous pressure to find qualified and diverse talent to fill their workforce needs.

Given this evolving environment, MID will need to conduct an updated landscape analysis that would map the current and proposed pathways for Durham youth and young adults post-COVID regarding

their access and opportunities for economic mobility. The process will include qualitative and quantitative data collection and analysis within the three critical components of the current system: Community, Education, and Corporate/Career. The results will inform MID's work at both the system and programmatic level, providing thought leadership and policy recommendations.

2. Durham Economic Mobility Study and Goals:

While MID and its initiative partners have engaged a significant number of participants and produced documented outcomes, the ultimate goal of the organization is to create access and opportunities for economic mobility. To determine progress in meeting this mission goal, MID will hire a professional economic consultant to help analyze Durham County's economic mobility data over a ten year period. The analysis will evaluate the data by race, gender, age and residency to allow MID to focus on its targeted demographic as it existed 10 years ago, exists today, and develop a future 10 year goal that will guide its work into the future.

3. Re-Engagement of K-12 Strategy:

In the post COVID years, Durham Public Schools has continued to see significant challenges in its ability to graduate students that are career ready. Change in leadership at both the System and Programmatic level has challenged MID's ability to connect and address the gaps and barriers contributing to this lack of success. However with new leadership at both levels, MID is set to develop the strategy to re-engage in this work. Partnering with Durham Public Schools (DPS) Foundation and several community-based organization partners, MID will develop a Re-engagement Career Strategy that allows DPS students to engage in dual enrollment programs and gain access to community initiatives that further their career awareness and opportunity.

Made in Durham Goal Two: Systems Scale

In the 2024-2025 contract year, MID will be actively engaged in two **system scale** activities. These include:

1. Final Build out of BULLS Biotech Academy Corporate:

The final phase of the BULLS Biotech Academy will be designed and implemented in the 2024-2025 year. This portion of the program will create a Corporate Engagement team that consists of MID, Durham Technical Community, the NC Biotech Center, the Greater Durham Chamber of Commerce, and the RTP Foundation. This group will develop a private sector employer group consisting of regional Biotech Site Leads that will meet regularly to ensure BULLS students are gaining access to jobs and once hired progression within the industry.

2. Analysis/Recommendation of Second Industry Sector:

MID has completed the initial analysis of the industry sector best suited for a BULLS Academy development. This analysis suggests that MID and its partners focus on the Clean Energy sector, but with some additional analysis required. In the 2024-2025 fiscal year, MID will lead the further build out requirements for a Clean Energy Academy that could be developed for the 2025-2026 year.

Made in Durham Goal Three: System Sustainability

In the 2024-2025 contract year, MID will be actively engaged in two **system sustainability** activities. Made in Durham defines its stages of sustainability as one of three areas of growth and development and the funding needed to support that development.

These include:

- Stage One as Proof of Concept
- Stage Two as Full Scale
- Stage Three as Sustainable

1. Incubation Pathway Sustainability Funding (Stage 3):

MID's role as a systems organization can sometimes require MID to incubate solutions and pathways that don't currently exist. This includes developing the initial programmatic pieces in addition to the partners and resources to execute. It is not MID's intention however to provide the ongoing execution of a pathway once documented as successful and worth continuing. The first such incubation pathway, the BULLS Biowork Academy, is on track to provide documentation of successful execution by December 2025. MID will therefore place a high priority on developing a Resource Sustainability Plan to ensure its continued operations in 2026 and beyond.

2. Next Incubation Proof of Concept Funding (Stage 1):

As the Second Industry Sector strategy becomes clarified, and work begins to develop the incubation pathway, MID will also need to identify resources to support the operations for the initial two years. This early execution funding will allow MID and the partner organizations to provide proof of concept necessary to attract the longer term sustainable funding for the second industry sector.

2024–2025 Made in Durham/Durham County Scope of Work GOALS (Exclusive of ARPA Related Scope of Work)

GOAL ONE: SYSTEMS ANALYSIS

1. Updated Landscape Analysis:

Goals/Outcomes

Phase 1: Data Collection: July 2024-September 2024

Goals/Outcomes:

- Community-based organizations
 - Compile list of 50 CBO's and ED's
 - Invite 50 to participate: Strategic Plans and Interviews
 - Reach 50% response rate (25)
- **Education institutions**

- Compile list of 5 Institutions and 15 leadership staff
- Invite 15 to participate: Strategic Plan and interviews
- Reach 80% response rate: 4 institutions and 12 staff
- **Corporate**
 - Compile list of 15 organizations /companies
 - Invite 15 to participate: Growth projection data and Interviews
 - Reach 80% response rate (12)

Phase 2: Data Evaluation: October 2024 - January 2025

Goals/Outcomes

- Hiring consultant expertise to assist in analysis
- Creation of a current system landscape analysis document
- Creation of a current system visual map
- Creation of a system for compiling data
- **Creation of System Recommendations document** that addresses:
 - Alignment, Gaps and Barriers in existing system
 - Policy Recommendations for improving the system
 - Areas for Shared Resources and Thought Leadership

2. Economic Mobility Analysis:

Goals/Outcomes

Phase 1: Data Collection: July 2024- November 2024

Goals/Outcomes:

- Hire consultant to conduct data analysis
- **Draft analysis completed**
- Revisions/Additions to draft completed

Phase 2: Data Evaluation: December 2024

Goals/Outcomes:

- Findings reviewed with key partners to provide input
- **Final report completed**

Phase 3: Presentation; January 2025

Goals and Outcomes:

- **Presentation by consultant** on Final Plan Analysis and Recommendation

3. Re-Engagement of K-12 Strategy

Goals and Outcomes:

Phase 1: Introductory DPS Meetings: July-September 2024

- Meet with new DPS Superintendent
- Meet with new DPS CTE Director

- **Identify mutual CTE/ETC goals**

Phase 2: Create Partner Collaborative for Engagement: October-December 2024

- Meet with DPS Foundation
- Share mutual ETC goals and collaboration partners
- **Create Engagement brief** to share with DPS

Phase 3: Hold Convening: January 2025

- **Share Engagement Strategy** with multiple partner organizations

GOAL TWO: SYSTEM SCALE

1. Final Build Out of BULLS Biotech Academy Corporate

Goals/Outcomes

Phase 1: Introductory Meetings: September 2024

- **Introductory Presentation** to State-wide Biotechnology companies in collaboration with NCBiotech and NCLifeScience

Phase 2: Employability/Hiring Process Development: October-December 2024

- Creation of Employability/Hiring Collaborative between BULLS partners and corporate Talent Acquisition officers to ensure skill development and hiring tracking
- **Initial analysis with recommendations completed**
- Quarterly meetings established

Phase 3: Career Progression Process Development: January- June 2025

- Creation of Progression Collaborative between BULLS partners and corporate HR Officers to ensure culture capacity and training, and progression supports
- **Initial Corporate Culture training completed**

2. Analysis/Recommendation Second Industry Sector

Goals/Outcomes

Phase 1: Pathways Collaborative: July-September 2024

- Initial meeting of BULLS Clean Energy Academy Partners to review initial pathway or pathways
- Identify probable credentialing pathways and partners

Phase 2: Credentialing Process: October-June 2025

- Participate in regional Community College credentialing discussions to develop entry level credential programs
- **Identify most probable credentialing** that matches BULLS demographics

Phase 3: Employability Collaborative: January-June 2025

- Utilize BULLS Biotech Academy model to create Clean Energy Employability Collaborative.
- **Initial analysis with recommendations completed**

GOAL THREE: SYSTEM SUSTAINABILITY

Goals/Outcomes

1. Incubation Pathway Sustainability Funding:

Goals/Outcomes

Phase 1: Analysis of Annual BULLS Academy Expense: July-September 2024

- Identify current BULLS Academy Expense by activity from all participating partners and develop a per student average
- Identify current on-going funding versus short term funding to develop short fall
- **Develop 3 year Sustainable funding goal**

Phase 2: Develop Collaborative Fund Raising Strategy: September-October 2024

- Determine fund raising collaborative
- Identify potential sources: Public, Private, Philanthropic
- **Set target goals by source**

Phase 3: On-going Fundraising: October 2024-October 2025

- **Complete fundraising campaign**
- **Develop alternative plan if campaign does not reach goal**

2. Next Incubation Proof of Concept Funding

Goals/Outcomes

Phase 1: Develop Execution Strategy for Identified BULLS Second Industry Sector Academy: January 2025-March 2025

- Identify time line for initial cohorts based on Report Recommendations and required for Proof of Concept
- Develop budget for execution

Phase 2: Develop Resource Strategy for Initial Proof of Concept: March-June 2025

- Identify potential funding partners
- Raise funding for initial cohorts

II. Reporting:

- A.** MID shall furnish the Economic Development Director or designee the following periodic reports, including and accounting for the expenditures of County funds pertaining to the work of services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith; and any other matters covered by this agreement.
- B.** MID shall provide a quarterly written report (due by November 15, 2024; February 15, 2025; May 15, 2025; and August 15, 2025) to the Economic Development Director or a designated County representative regarding progress, metrics, and updates of items described within Section I: Responsibilities. .
- C.** Communication from MID on progress as requested by the County or as deemed appropriate by MID.

- D. If requested, an annual report presented to the Durham Board of County Commissioners at a mutually agreeable time.

III. Funding:

- A. The County agrees to pay MID a total of \$250,000.00 for the successful outcome of efforts provided for hereunder.
- B. Payment shall be made by electronic funds transfer (EFT) with the first lump sum payment of \$45,454.54 on or about September 14, 2024, followed by (9) equal monthly payments of \$22,727.27 starting on or about September 31, 2024 with last payment due on or about May 31, 2025.