



PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into by and between **Schneider Geospatial, LLC**, a Delaware Limited Liability Company, whose place of business is 8901 Otis Avenue, Suite 300, Indianapolis, IN 46216 ("PROFESSIONAL") and **Durham County, NC**, whose place of business is: Durham County Tax Administration, 201 E Main St, Durham, NC 27701 ("CLIENT").

1 Services.

PROFESSIONAL shall provide CLIENT with the following services ("Services"):

A. Appeals Pro

Appeals Pro provides an online Appeals Filing Management System and Online Meeting Scheduler that allows the citizen to submit their appeal online. Appeals engages with the appellant to ensure the details are correct and they understand the process. Appeals can schedule and manage informational meetings between the Assessor's office and property owners to explain or discuss the values and to address any concerns. If the property owner still wishes to start the appeals process, Appeals will guide them through the process, including reviewing comparable sales in their neighborhood or attaching supplementary evidence. In addition, Appeals Pro provides a complete environment to receive, process, manage and report on every aspect of the appeals lifecycle including communications, document management, workflow and workload. All aspects of the appeal, such as updates, data changes, and status are reported via a tiered dashboard that offers real time summary information. Product functionality shall include the following:

a. Online Appeal Submission Portal (Public)

- i. **Open Access** – user access is obtained through a web browser using a public url that is shared by CLIENT with their citizens. There is no login required.
- ii. **Subject Property Search** – the Subject Property is quickly searchable via a dynamic search that can search across multiple identification categories including but not limited to Street Address, Parcel No. or Account No. etc.
- iii. **Step-by-Step Wizard** – user is guided through the appeal process in a simple step-by-step process to gather all relevant details.
- iv. **Agent Authorization** – users filing an appeal on behalf of a property owner are required to download and submit their authorization/power of attorney.
- v. **Comparable Sales** – Comparer is integrated directly into the workflow so that users can quickly and easily review market sales and include these as supporting evidence with their appeal.
- vi. **Estimation & Reason** – users are required to provide their opinion of value as well as the reason for their appeal.
- vii. **Upload Documentation** – user is able to upload additional documentation in support of their appeal.
- viii. **Communication** – upon submission, the filer receives an email confirming successful receipt of their appeal.
- ix. **Dual Level Appeal Windows** – ability to manage both Assessor level and CBOE level appeals within the same system and where appeals can be escalated from the first to the second level.
- x. **Meetings** – the Meetings module can be enabled to allow the public to schedule informal informational meetings with the office before deciding to file a formal appeal.

b. End-to-End Appeal Management (Internal Use)

Appeals Pro provides the Assessor's team with the ability to manage the internal workflow of an appeal from submission to settlement.

- i. **Secure Access** – access to the appeals management is obtained through a web browser using individual login credentials.
- ii. **Dashboard & Overview** – up-to-date analytics of the current or prior year appeal seasons are displayed in a dashboard for quick access and easy reporting.
- iii. **Workflow Tracking** – progress of appeals can be easily monitored as they are moved through sequential Phases.
- iv. **Labels** – provide an additional layer of flexibility to the Assessor, allowing them to customize smaller internal processes or tag specific groups of appeals.
- v. **Search & Filters** – individual appeals or groups of appeals can be located using a combination of search terms and filters.

HEADQUARTERS

Historic Fort Harrison
8901 Otis Avenue, Suite 300
Indianapolis, IN 46216

Ankeny, Iowa

1450 Southwest Vintage Parkway
Suite 260
Ankeny, IA 50023

- vi. **Assign to staff** – appeals can be assigned to individual appraisers. Administrators can monitor workload of all appraisers and re-assign if necessary.
- vii. **Recommendations** – after reviewing an appeal, staff can make and record a recommendation of value which is assigned to an Administrator for approval.
- viii. **Mass Action** – certain actions can be performed in bulk such as issuing notifications, approving appraiser recommendations or scheduling hearings.
- ix. **Meeting/Hearing Scheduling** – create time slots, block out dates and manage all formal scheduled hearings.
- x. **Record Decisions** – take notes and record the decision of hearing officers/board members during a hearing.
- xi. **Communication** – as an appeal moves through different Phases, the filer is notified of key milestones such as notice of determination including the option to escalate an appeal, hearing scheduling and board decisions.
- xii. **Export Data** – appeal and hearing data can be exported in csv and txt format including any uploaded and system-generated documentation.

B. AppraisalEst

AppraisalEst is a GIS Based Appraisal toolset providing functionality for data cleansing, data analysis, valuation, and ratio analysis. AppraisalEst uses comparable sales information, property characteristics, and location to produce estimates of value. It combines statistical analysis within the power of a map interface enabling both novice and advanced users to generate high quality accurate appraisal analysis.

a. Data Cleaning / Analysis / Anomaly Detection

AppraisalEst makes it easy for Assessment Professionals to query their data and visualize the results, thereby identifying errors and anomalies that need to be corrected to ensure accurate values. The functionality found within AppraisalEst includes:

- i. **Licensed Desktop Application** – user access is provided as a desktop installation via a site license agreement. A client-specific license key is input one time during the installation process. An installation is performed on each user's local machine.
- ii. **Data Connections** – AppraisalEst offers a variety of ways to connect with data including databases (SQL Server, Oracle, Access), delimited text files or SpatialEst Data Files (SDF's), a proprietary AppraisalEst file format.
- iii. **AppraisalEst Data Server** – PROFESSIONAL will work with CLIENT to establish a regularly scheduled data update that is pushed to PROFESSIONAL'S hosted server. CLIENT is then able to seamlessly access current data from anywhere an internet connection is available.
- iv. **Filters** – data can be filtered as it is loaded into AppraisalEst. This allows the user to focus their analysis on a subset of data like a specific Neighborhood or Property Type
- v. **Map** – the map window allows the user to visualize the results of their analysis by providing context and understanding. The map is navigated similarly to other mainstream GIS applications including the ability to make selections and add or customize different layers like property boundaries, street or satellite imagery.
- vi. **Scripts** – a toolbox of Scripts allows the user to perform a variety of discrete pieces of analysis and form the basic building blocks of AppraisalEst. A typical project is made up of multiple Scripts that may include functions such as time adjustment, outlier identification and ratio analysis.
- vii. **Tagging Anomalies** – the ability to quickly tag and add notes to any properties that may contain errors. These error reports can be exported and sent to the relevant staff member to be further investigated and corrected.
- viii. **Exports** – AppraisalEst has several export capabilities which include error reports, property summary reports and subsets of data that are made by any one of the selection criteria.
- ix. **Graphing** – the ability to analyze data in graphic form using single or multiple attributes. Data can be visualized and interacted with via Scatter Plots, Pie Charts, Box Plots or Histograms.
- x. **External Url's** – the ability to link to external url's such as an online property record card provides quick access to supplementary analysis.
- xi. **Google Street View** – the ability to launch Google street view from within the application by dropping the Pegman on the map.
- xii. **Pictometry Plugin** – the ability to link directly to CLIENT'S Pictometry service using their valid license keys.
- xiii. **Property Images** – PROFESSIONAL will work with CLIENT to obtain access to any CLIENT-owned property images and enable the ability to load these images from within the application.

- xiv. **Help Guide** – a searchable guide is available within the application and includes details on some of the AppraisalEst functionality as well as some high-level industry specific theory such as regression modeling.

b. Regression and Comparable Sales Modeling

AppraisalEst includes the ability for the Assessment Professional to create their own Multiple Regression and Comparable Sales Models that can support their CAMA system values and test for consistency and predictive accuracy via post-analysis.

- i. **Regression Assistant** – a step-by-step Assistant guides the user through a series of dialogues, incorporating the user's local knowledge and creating a working regression model.
- ii. **Regression Wizard** – a secondary and more automated method to create a regression model which allows the application to make determinations of which attributes should be incorporated in the model after considering certain exclusion made by the user.
- iii. **Regression Model Results** – IAAO standards of ratio results are displayed in the Ratio Stats and the Ratio Chart shows the distribution of predicted values from which any outliers can be directly viewed on the Map.
- iv. **Regression Results Report** – an Export of the regression model's inputs and outputs can be generated and saved as a pdf document.
- v. **Comparable Sales Model** – a powerful and advanced method of property valuation. This method uses the Assessment Professional's local knowledge to develop a series of rules or iterations to identify the best comparable sales for every property based on distance and similarity.
- vi. **Comparable Model Results** – by selecting a Subject Property on the Map, the appropriate comparable sales are highlighted, and an attribute table is displayed allowing for side-by-side comparison including the estimate of value.
- vii. **Comp Model Results Export** - an XML export can be generated which contains the selected comparable sales for every property. These results can be loaded directly into PROFESSIONAL's Comper application as pre-selected comps.
- viii. **Ratio Analysis** – this study allows the user to assess overall model performance and reviews the relationships between the actual sale prices and the model predicted values using the recommended IAAO statistics.

C. AppraisalEst Professional Services Package

Ongoing annual AppraisalEst analysis and model building to assist with data cleansing, generating values, reviewing ratios, performing equity analysis, assisting appraisers with reviewing the results, as well as generating and understanding their own analysis.

D. Tax Bill Search

The Tax Bill Search application allows the citizen to quickly and easily search for their tax bill online. There are multiple criteria by which they can search, such as owner name, address, bill number, parcel number and account number. The results will present the most recent taxable value, the status (Paid or unpaid) and tax amount for each property. The application also gives access to the transaction history, where the citizen can review tax bills from previous years.

E. Comper Pro (Hosting Renewal)

Comper Pro is a revolutionary online Comparable Sales selector. Comper Pro helps validate or present assessment information, assists with appeal management and improves accessing or disseminating property information. The associated Comp Grid allows the appraisers to make adjustments to the comps and generate a value. It provides the ability for appraisers to generate their own URAR form/Fee Appraiser style report. Product functionality shall include the following:

a. Comparable Sales Selector

- i. **Ratio Analysis** – this study allows the user to assess overall model performance and reviews the relationships between the actual sale prices and the model predicted values using the recommended IAAO statistics.
- ii. **User protected Login** – user access is controlled via login credentials. Two user profiles exist. One for Administrators and one for standard Users, providing different permissions.
- iii. **Subject Property Search** – the Subject Property is quickly searchable via a dynamic search that can search across multiple identification categories including but not limited to Street Address, Parcel No. or Account No. etc.
- iv. **Filters** – customizable filters can be activated, deactivated, or adjusted to allow the user to refine the list of potential comparable sales.

- v. **Attribute Information** – Subject and Comp info displays are customized to allow easy comparison and review of the most relevant data for decision-making. There is also a link for quick access to the full source data.
- vi. **Comp Selection** – the comp selection tool allows the user to quickly and easily add or remove properties from the comparable sales list.
- vii. **Comp History** – a history of the saved comps is recorded, including information about the User, Date and Time they were saved. (Optional – clients with AppraisalEst™ have the ability for the Comps generated via the Comp Model to also be saved to the comp history.)
- viii. **Street/Satellite Imagery** – the map-based solution provides spatial context of the Subject Property and Comparable Sales using either street or satellite imagery. Map extent dynamically updates as the filters and selected comparable sales are adjusted.
- ix. **Comparable Sales Print Report** – a customizable pdf comp report can be generated that displays a side-by-side comparison of the Subject Property and selected Comparable Sales.

b. Comparable Sales Adjustment Grid (Comp Grid)

The Comp Grid is a professional side-by-side analysis table that makes line-item adjustments of the comparable sales attributes to be 'like' the Subject based on a defined set of criteria, thus reflecting an indicated Market Value.

- i. **Adjustment Rates** – Comp Grid rates are configured to make a variety of adjustment types that include dollar/unit, % adjustment, dollar for dollar, qualitative factoring as well as Min/Max adjustments.
- ii. **Grid Estimate** – the estimate of value is determined based on the net adjusted sale prices of the comparable sales and can be calculated using mean, median or moving average.
- iii. **Editing Adjustments** – users are able to manually change any adjustments as well as add additional line items that may be appropriate.
- iv. **Add Notes** – users can make notes against individual line-item adjustments as well as analysis or summary notes regarding the full report.
- v. **Grid Report** – a highly detailed pdf comp report provides a side-by-side comparison of the Subject Property and selected Comparable Sales with the adjustments, notes and estimate of value.

F. Comper for Citizen (Hosting Renewal)

Comper for Citizen is an interactive map-based application that allows the taxpayer to view their property in comparison to similar, nearby properties that have recently sold. Simple, easy to use filters allow the citizen to select the sales evidence they feel best represents their property. Product functionality shall include the following:

- a. **User Access** – Public user profiles can access Comper using an open public url with no login required. (Internal user profiles have secure password protected access).
- b. **Subject Property Search** – the Subject Property is quickly searchable via a dynamic search that can search across multiple identification categories including but not limited to Street Address, Parcel No. or Account No. etc.
- c. **Filters** – customizable filters can be activated, deactivated, or adjusted to allow the user to refine the list of potential comparable sales.
- d. **Attribute Information** – Subject and Comp info displays are customized to allow easy comparison and review of the most relevant data for decision-making. There is also a link for quick access to the full source data.
- e. **Comp Selection** – the comp selection tool allows the user to quickly and easily add or remove properties from the comparable sales list.
- f. **Comp History** – a history of the saved comps is recorded for internal management, including information about the User, Date and Time they were saved.
- g. **Street/Satellite Imagery** – the map-based solution provides spatial context of the Subject Property and Comparable Sales using either street or satellite imagery. Map extent dynamically updates as the filters and selected comparable sales are adjusted.
- h. **Comparable Sales Print Report** – a customizable pdf comp report can be generated that displays a side-by-side comparison of the Subject Property and selected Comparable Sales

Other Fixed Fee phases of this project may be developed during the course of this agreement. Once the estimates are accepted, an Authorization to Proceed will have to be signed and submitted before work will begin.

2 Payment for Services.

CLIENT shall compensate PROFESSIONAL for the Services as follows:

A. Product/Service

a.	One-time Setup Cost:	\$8,500
	Setup items:	
	Appeals Pro Setup	Included
	Subtotal	\$17,000
	Discount	(\$8,500)
	Total	\$8,500
b.	Annual Hosting:	\$123,816
	Hosting items:	
	Appeals Pro	Included
	AppraisalEst	Included
	AppraisalEst Professional Services Package	Included
	Tax Bill Search	Included
	Comper Pro (Renewal)	Included
	Comper for Citizen (Renewal)	Included
	Subtotal	\$135,408
	Discount	(\$11,592)
	Total	\$123,816

B. Payment Schedule

Year 1	July 1 st , 2024 – June 30 th , 2025: (Setup: \$8,500, Hosting: \$123,816)	\$132,316
Year 2	July 1, 2025 – June 30, 2026:	\$129,986
Year 3	July 1, 2026 – June 30, 2027:	\$136,488

Invoicing will be done on an annual basis at the beginning of the term unless otherwise specified.

If the CLIENT cancels the agreement before end of initial multi-year term, any waived discounts and promotional fees will be included in the final invoice.

Balances due thirty (30) days after the due date for non-government clients and sixty (60) days after the due date for government clients shall be assessed an interest rate of 1½% per month (18% per year). CLIENT agrees to pay for any and all costs of collection including, but not limited to interest, lien costs, court costs, expert fees, attorney's fees and other fees or costs involved in or arising out of collecting any unpaid or past due balances, including late fees or penalties. If payment is not received within thirty (30) days of the due date, PROFESSIONAL reserves the right, after giving seven (7) days written notice to CLIENT, to suspend services to CLIENT or to terminate this Agreement.

3 **Terms of Service.** Each party's rights and responsibilities under this Agreement are conditioned upon and subject to the Terms of Service which can be found at <http://schneiderGIS.com/terms-of-service>. By executing this Agreement, CLIENT acknowledges that it has read the above-described Terms of Service and agrees that such Terms of Service are incorporated herein and made a part of this Agreement. PROFESSIONAL reserves the right to update or modify the Terms of Service upon ten (10) days prior notice to CLIENT. Such notice may be provided by PROFESSIONAL to CLIENT by e-mail.

4 **Term, Termination and Renewal.** The initial term of this Agreement shall be defined in the Scope of Services or Payment Schedule above. If the services provided are for an annual rate and extend for multiple years, PROFESSIONAL will prorate the first year of the agreement to match the fiscal year for the CLIENT, followed by consecutive, twelve (12) month periods. This Agreement shall automatically renew for successive terms which consist of a twelve (12) month period, subject to earlier termination as set forth in this Agreement or upon written notification by either party thirty (30) days prior to the end of a term. If, for any reason, this Agreement is terminated prior to the end of a term, any waived or discounted fees or specified promotional items provided by PROFESSIONAL shall be invoiced by PROFESSIONAL and paid by CLIENT. PROFESSIONAL reserves the right to update the pricing applicable to this Agreement after the initial term for any renewal terms and/or any subsequent terms occurring after the initial term of the Agreement; PROFESSIONAL shall provide prior written notice to CLIENT of any pricing adjustments applicable to any such renewal and/or subsequent terms.

5 **Additional Data Hosting.** PROFESSIONAL's website hosting services allow for storage of up to ten (10) Gigabytes of data and files to include as content for CLIENT's website hosted in PROFESSIONAL's web data server environment. Additional storage and

transfer requirements may be negotiated, at PROFESSIONAL's discretion, if CLIENT decides to add additional content to the website – such as orthophotos, scanned documents, etc.

6 Assignment. PROFESSIONAL has the right to assign or transfer any rights under or interest in this Agreement upon fifteen (15) days' written or electronic notice to CLIENT. Nothing in this Paragraph shall prevent PROFESSIONAL from employing consultants or subcontractors to assist in the performance of the Services.

7 Rights and Benefits. Nothing in this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than CLIENT and PROFESSIONAL. CLIENT and PROFESSIONAL expressly state there are no third-party beneficiaries to this Agreement.

8 Successors. This Agreement is binding on the partners, successors, executors, administrators and assigns of both parties.

9 Applicable Law. The terms and conditions of this Agreement are subject to the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Parties have executed this Agreement by affixing their signatures below.

Pricing is valid through July 2024.

PROFESSIONAL:
Schneider Geospatial, LLC

By: Jeff Corne

D39413E0C71F43A...
Print: Jeff Corne, GISP

Title: President

Date: 11/13/2024 | 3:10 PM GMT

CLIENT:
Durham County Tax Administration

By: Claudia O. Hager

2B24CE2253F7468...
Print: Claudia O. Hager

Title: County Manager

Date: 11/17/2024 | 11:52 AM EST

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

Docusigned by:

Crystally Wright

6405E2748BAF4D4

Crystally Wright, Interim Durham County Chief Financial Officer

**DURHAM COUNTY - NC LOCAL GOVERNMENT
STANDARD CONTRACTUAL TERMS & CONDITIONS RIDER
Local Government Rider ("LGR")**

THIS LGR is hereby made and entered into by and between DURHAM COUNTY ("County") and any and all parties entering into any contract, memorandum of understanding, proposal, quote acceptance, or other agreement of any kind, for the provision of goods, services, or other consideration of any kind, to the County referencing its existence or inclusion as a part thereof. In particular, this Rider is hereby made part of the Agreement and Terms and Conditions with Schneider Geospatial, LLC.

Any such instrument(s) together with any and all exhibits, addenda, riders and/or any other instruments attached to, or incorporated by reference therein, shall be collectively referred to hereinafter as the "Contract".

WITNESSETH:

WHEREAS, County is a body politic of the State of North Carolina, subject by operation of law to certain additional rules, regulations, and laws applicable to public and/or governmental bodies including without limitation certain operational and contractual requirements; and

WHEREAS, the risk of financial default under a contract entered into by such a governmental body is substantially lower than the ordinary risk of financial default attributable to private or commercial entities; and

WHEREAS, the risk inherent in a contract should be minimized so as to properly steward public funds; and,

WHEREAS, County has established this LGR for the non-exclusive purposes of expediting its contract review and approval process, to document notice of its governmental status, and to protect its citizens and the public at large from unnecessary risks as well as illegal or unfair obligations otherwise imposed under certain contracts; and

WHEREAS, County is prohibited by applicable law from executing the Contract without modification by this LGR, or has otherwise determined it is not in the best interests of its citizens and the public at large to do so without the additional terms and conditions of this LGR being made a part thereof.

NOW THEREFORE, in exchange of the mutual covenants made herein, and for other good and valuable consideration exchanged between the parties, the sufficiency of which is hereby acknowledged, including but not limited to the inducement of County to enter into the Contract as modified by this LGR, the parties agree as follows:

PART A: CONTRACTUAL INCORPORATION & PRECEDENCE OF LGR WITHIN CONTRACT:

1. **Contract Incorporation: THE TERMS AND PROVISIONS OF THIS LGR SHALL BE DEEMED FULLY AND COMPLETELY INCORPORATED INTO, AGREED TO, AND ACCEPTED BY, ALL PARTIES ENTERING INTO CONTRACT AS REFERENCED IN THE PREAMBLE ABOVE.**

2. **Condition Precedent:** Each party entering into any such Contract further agrees that the incorporation of this LGR into the terms and conditions of the Contract shall be deemed to be a **MATERIAL CONDITION PRECEDENT** to County's acceptance of such Contract, and to the validity and enforceability of said Contract against County by any party thereto.
3. **Contractual Conflict & Precedence:** **NOTWITHSTANDING ANY STATEMENT OR PROVISION WITHIN THE CONTRACT TO THE CONTRARY, AND EXCEPT FOR ANY "ADDITIONAL TERMS & CONDITIONS" AGREED TO BETWEEN THE PARTIES PURSUANT TO THE IMMEDIATELY FOLLOWING PARAGRAPH, THE TERMS AND CONDITIONS OF THIS LGR SHALL SUPERSEDE, CONTROL OVER, AND PREVAIL IN THE EVENT OF ANY CONFLICT WITH ANY DIFFERING OR CONTRARY TERMS OR CONDITIONS OF THE CONTRACT TERMS AND CONDITIONS, OR ANY OTHER AGREEMENT-RELATED DOCUMENTATION. Except to the extent they are inconsistent with or modified by this LGR, the terms and conditions of the contract shall remain in full force and effect.**
4. **Additional Terms & Conditions:** To the extent the parties require any additional or specific modifications or amendments to the Contract, or to this LGR itself, the same **shall be reduced in writing and attached to the Contract labeled as "*Additional Terms & Conditions*" which shall clearly reference the Contract to which it applies, shall state that it takes precedence over, and shall control in the event of any conflicts with, both the Contract and any Local Government Rider", and shall be separately signed by all parties concurrently with their execution of the Contract instrument(s).**

PART B: STANDARD LOCAL GOVERNMENT PROVISIONS:

1. **Public Records & Confidentiality:** County is required to comply with certain applicable statutes of the State of North Carolina regarding open meetings and/or open records. Notwithstanding anything to the contrary within the Contract, County shall not be liable to any party for disclosing the Contract, or any documents or communications made or received in relation thereto, to any third party or the public at large, if such disclosure is made by County in a good faith effort within its sole discretion, to comply with any public records request or other applicable laws.
2. **Limitation on Contractual Authority:** Only the County Board of Commissioners, the County Manager, or another agent specifically designated in writing by either to exercise their respective authority related to the Contract shall be authorized to enter into, modify, or otherwise bind the County to the Contract in any way. Any such action shall be taken only by the signed written consent thereof, and no party shall rely upon any verbal communications, or otherwise upon the authority of any other agent of the County in lieu thereof. This provision shall apply to prevent any inadvertent or passive modifications to the terms of the Contract through communications between the parties as may otherwise be allowed by law, including but not limited to any such provisions of the North Carolina Uniform Commercial Code, if applicable.

3. Limitation Upon Partial/Progress Payments for Goods/Materials to be Delivered: Payment (partial or otherwise) for any physical goods or materials to be provided to the County pursuant to the Contract, shall not be due or owed by the County until after actual delivery and acceptance of any such physical items. The parties hereto agree and acknowledge that the current Contract does not contemplate any delivery of physical goods or materials.
4. E-Verify Certification: At all times during performance of the Contract, all parties shall fully comply with Article 2 of Chapter 64 of the General Statutes, and shall ensure compliance by any subcontractors utilized. All parties shall execute an affidavit verifying such compliance upon request by County.
5. Iran Divestment Act Certification: All parties executing this Contract thereby affirm they are not listed on the Final Divestment List created by the State Treasurer pursuant to NCGS 143-6A-4, nor shall they utilize any subcontractor in the performance of the Contract that is identified upon said list.
6. Constitutional Limitation on County Indemnification: The parties acknowledge and understand that an unlimited indemnification by County constitutes a violation of the North Carolina Constitution, and is void and unenforceable by operation of law. Any indemnifications given by County to any party under the Contract shall be deemed to be given only to the fullest extent allowed by law, and shall not be deemed to indemnify any party against claims or actions arising from any action or inaction of any other parties.
7. Contingent Funding/Non-Appropriations Clause: Notwithstanding anything to the contrary within the Contract or this LGR, all financial obligations of the County under the Contract are dependent upon, and subject to, the continuing allocation of funds by the County Board of Commissioners for such purpose. The Contract shall automatically terminate if such funds cease to be allocated or available for any reason. The County and the County Board of Commissioners shall act in good faith and exercise reasonable efforts to ensure any necessary allocation of funds are requested and approved as required by law.
8. Constitutional Prohibition of Limitations of Liability: Limitations of liability granted by a North Carolina government entity that amounts to an exclusive emolument may be prohibited by the North Carolina Constitution. Any limitation of liability provisions contained in the Contract may not be interpreted or implemented in a manner contrary to North Carolina law. Any such term and condition that violates North Carolina law shall not apply to this Agreement; however, any applicable limitation of liability provision in the Contract shall nonetheless be fully enforceable to the extent and limits allowed under North Carolina law.
9. Pre-audit & Purchasing Policy Notices: Per NCGS § 159-28 no contract with a local government including County requiring the payment of any public funds is valid unless properly pre-audited in the manner required by said statute. The Contract must contain a Pre-audit Certificate signed by the County Finance Officer or their Deputy which shall take substantially the following form "This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act." Failure to obtain a pre-audit upon

the Contract makes the contract invalid and unenforceable per state law.

10. **General Legal Compliance:** Any party providing goods or services of any kind to the County pursuant to this Contract hereby agrees to do so in compliance with any and all applicable local, state, or federal rules, regulations, or laws, and shall be solely responsible for the failure to abide by the same unless otherwise agreed in writing by the County. Without limiting the generality of the foregoing paragraph:

a. **Federal Uniform Guidance Requirements:** If the source of funds for this Contract are federal funds, the following non-exclusive federal provisions shall apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable), and all parties hereto agree to comply with any and all such applicable provisions.

- i. Equal Employment Opportunity (41 C.F.R. Part 60);
- ii. Davis-Bacon Act (40 U.S.C. 3141-3148);
- iii. Copeland "Anti-Kickback" Act (40 U.S.C. 3145);
- iv. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708);
- v. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387);
- vi. Debarment and Suspension (Executive Orders 12549 and 12689);
- vii. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);
- viii. Procurement of Recovered Materials (2 C.F.R. § 200.322); and
- ix. Record Retention Requirements (2 CFR § 200.324)

County shall be responsible for notifying Contractor in writing if any source(s) of funds for this Contract are federal funds.

b. **Insurance, Certifications, & Indemnification:** County shall not be required to obtain any such insurance for any of the employees, contractors, or subcontractors of any other party to the Contract, and Contractor hereby agrees to promptly provide certificates of such coverage, or other adequate proof thereof upon County's request, and further to immediately notify County in the event of any loss or disruption of any such coverage during the term of the Contract as a material term hereof. Certificates of Insurance shall name Durham County as the certificate holder, but shall not name the County as an Additional Insured.

Contractor shall have and maintain the following coverages during the entire term of the Contract:

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.

Cyber Liability: policy must cover breach costs, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration

of electronic information, extortion, network security, and loss at no less than \$1,000,000 per occurrence.

County is hereby authorized to withhold payments under the Contract pending receipt of proof of such insurance coverage if applicable without being in breach of the Contract.

PART C: OTHER GENERAL PROVISIONS: Notwithstanding anything within the Contract, Terms and Conditions, or any other Agreement-related documentation to the contrary:

1. Choice of Law, Forum (See N.C.G.S. §22B): This Contract is made and entered into in Durham County, North Carolina and shall be governed by and construed in accordance with North Carolina law. Any claim for breach or enforcement of this Contract shall be filed in the appropriate court located in North Carolina. Notwithstanding any terms and conditions to the contrary, binding arbitration shall not apply.
2. 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, or any other location mutually agreed upon by the parties. 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, the parties may seek resolution in and the state or federal courts of the State of North Carolina.

3. Construction & Headings: No rule of construction shall apply against any party as the drafter of the Contract which is the result of an arms-length negotiation between the parties. The titles/captions/headings of any and all portions of the Contract are intended for reference purposes only, and shall not be deemed to affect the meaning or interpretation of the Contract terms and conditions.
4. Merger: The Contract is the entire agreement between the parties with respect to the foregoing matter and there are no other verbal or written agreements with respect thereto between the parties which have not been reduced to writing and specifically incorporated into the Contract.
5. Modification: No modifications of the Contract shall be valid unless reduced to writing signed by all parties hereto.
6. Severability: The provisions of this Contract are intended to be severable. Any and all provisions of this Contract that are prohibited, unenforceable, or otherwise not authorized in any jurisdiction shall, as to such portion and/or jurisdiction only, be deemed ineffective to the extent of such prohibition, unenforceability, or non-authorization, without invalidating the remaining provision(s) hereof in such jurisdiction, or affecting the continuing validity, enforceability, or legality hereof in any other jurisdiction.

7. Signature Warranty: Any party executing the Contract as a corporate or other legal entity represents to the other parties hereto that such entity is duly organized, validly existing, and in good standing under the laws of the State of North Carolina or otherwise under the laws of the state of its formation, and is qualified to transact the business contemplated herein within the State of North Carolina, and further that any such party executing the Contract on behalf thereof, has the full power and authority to do so without any further authorization being required from any party, and thereby legally binds said entity to the terms and conditions of this Contract.
8. Additional Limitation of Scope of County Indemnification: If applicable, any indemnification given by County shall be deemed and further limited to indemnify against claims or actions arising from the action or inaction of County's own officers, officials, employees or agents only;
9. Savings Provision: County shall not be held in default of the Contract or otherwise deemed in breach thereof, unless it has first failed to cure any condition causing such default within fifteen days (15) days written notice thereof by the party alleging such default. If County cures any default within that period, no breach of the Contract shall be deemed to have occurred.
10. Electronic and/or Duplicate Execution & Order of Execution: The Contract may be executed in multiple counterparts, in which event each executed copy shall be deemed an original document as between the parties. An electronic signature and/or copy of the Contract shall have the same force and affect as the original. Due to the need to comply with statutory auditing requirements, all parties contracting with County shall execute the Contract first and deliver a fully signed copy thereof (preferably via electronic form) to the County for its counter-execution and delivery of a fully signed copy to all parties.