

INTERNAL CONTRACT REQUISITION FORM

CONTRACTOR/VENDOR NAME: BRADY SERVICES INC VENDOR # 1000015609

CONTRACTOR NAME & E-MAIL (INDIVIDUAL E-SIGNING FOR THE CONTRACTOR):

Jason Patterson jason.patterson@bradyservices.com
 Print Name E-Mail Address

TYPE OF CONTRACT: New ☒ Renewal ☐ Amendment ☐ Services ☒ Goods ☐ Consulting ☐ Construction ☐ Lease ☐ Other ☐SCOPE OF WORK: HVAC Compressor Replacements at Senior CenterCONTRACT AMT: \$53,292.42 CONTRACT TERM: May 8, 2025 – June 30, 2025 RFP/IFB/RFQ#: _____FUNDING SOURCE/TITLE: County ☒ State ☐ Federal ☐ Title/Name of Grant Funds _____UNIFORM GUIDANCE (UG) PROCEDURES APPLICABLE? YES ☐ NO ☒

ITEM LINE#	FUND	COST CENTER	G/L ACCOUNT	WBS ELEMENT (Grants/Projects Only)	GRANT NUMBER	MATERIAL GROUP#	TOTAL	I/D	ADDITIONAL INFO
1	1001010000	4190425038	5200160100				\$53,292.42		Senior Center
2									
3									

RISK MANAGER Contract Requires Risk Management Review/Approval? YES ☒ NO ☐

COUNTY ATTORNEY

Signature: _____ Date: _____

Reviewing Attorney: _____ Date: _____

Contract Requires BOCC Approval? YES ☐ NO ☒ Date of BOCC Approval: _____

REQUISITIONER

PURCHASING MANAGER

DocuSign E-Signature: _____ Date: __________
Date: _____Print Name/E-Mail: Joseph Caruth jcaruth@dconc.govDocuSign E-Signature

DEPARTMENT HEAD OR DESIGNEE

CHIEF FINANCIAL OFFICER

DocuSign E-Signature: _____ Date: __________
Date: _____Print Name/Title: Motiryo Keambiroiro, Director of General ServicesDocuSign E-SignatureE-Mail Address: mkeambiroiro@dconc.gov

COUNTY MANAGER

Date: _____

Additional Comments/Instructions by Department:

County Designated Representative(s):

Name: Claude EubanksPhone Number: 919-201-1201Email: ceubanks@dconc.gov

EMERGENCY CONTRACT

DocuSign E-Signature

CLERK TO THE BOARD

Date: _____

FUNDS RESERVATION# _____

DocuSign E-Signature

IS&T DEPT

Date: _____

Purchasing Comments:

DocuSign E-Signature



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Scott Insurance 400 Bellemeade Street, Suite 201 Greensboro NC 27401	CONTACT NAME: Amy Summers PHONE (A/C, No, Ext): 336-510-0075 E-MAIL ADDRESS: asummers@scottins.com FAX (A/C, No):
INSURED Brady Services Holdings Inc, MMK, LLC, Brady Trane Service Inc, Brady Services Inc, Brady Sales & Services Inc, Brady Parts Inc, Brady Integrated Security Inc, J. Brady Contracting, Inc, Icon Boiler, Inc PO Box 13587, Greensboro NC 27415	INSURER(S) AFFORDING COVERAGE INSURER A: Zurich American Insurance Company (A+) 16535 INSURER B: Houston Casualty Company (A++) 42374 INSURER C: XL Specialty Insurance Company (A+) 37885 INSURER D: QBE Specialty Insurance Company (A) 11515 INSURER E: Arch Specialty Insurance Company (A+) 21199 INSURER F: Travelers Excess and Surplus Lines Company (A++) 29696

COVERAGES**CERTIFICATE NUMBER:** 1978059821**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:		Y	HCC2469342	10/1/2024	10/1/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Comp: \$500 <input checked="" type="checkbox"/> Coll: \$1,000		Y	BAP3433330	10/1/2024	10/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Hired Physical Damage \$100/1,000
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$0		Y	140002016 UXP1056544-00 EX-4S291802-24-NF	10/1/2024 10/1/2024 10/1/2024	10/1/2025 10/1/2025 10/1/2025	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$10M x \$5M Excess \$10,000,000
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WC3433328	10/1/2024	10/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B C	Professional & Pollution Liab Builders Risk/Installation Fitr Leased & Rented Equipment			HCC2469342 UM00145642MA24A	10/1/2024 10/1/2024	10/1/2025 10/1/2025	5,000,000 per occ/agg 2,000,000 Limit Limit 35,000 ded 5,000 ded 200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

A waiver of subrogation as respects workers compensation, general, auto and umbrella liability applies in favor of the Certificate Holder if required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

Durham County
120 E Parrish St, 1st floor
Durham NC 27701

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**NORTH CAROLINA
DURHAM COUNTY**

SERVICE CONTRACT

THIS CONTRACT is made, and entered into this the 8th day of May, 2025, by and between the **COUNTY of DURHAM**, a political subdivision of the State of North Carolina, (hereinafter referred to as “COUNTY”), and **BRADY SERVICES INC** a Corporation, Limited Liability Company, Individual, or other Entity 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 **May 8, 2025**. 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 May 8, 2025 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 **Fifty-Three Thousand Two Hundred Ninety-Two AND 42/100 DOLLARS (\$53,292.42)** 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**

**CONTRACTOR BRADY SERVICES INC
ATTN: JASON PATTERSON
2025 16TH STREET
GREENSBORO, NC 27405**

- 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.

Crystally Wright, Durham County Interim Chief Financial Officer

CONTRACTOR

By: _____

Print Name/Title: _____

Date of Signature: _____

ATTACHMENTS to follow



SCOPE OF SERVICES FORM

This Scope of Services is an integral part of this contract between the **County of Durham** (“County”), and **Brady Services** (“Contractor”), which contract is dated May 5, 2025. Contractor agrees to provide services and/or materials pursuant to the provisions set forth below.

- I. **Background/Purpose:** Repair system to normal operation to provide comfort for employees and building occupants.
- II. **References:** The following documents are incorporated herein by reference to them:
 - Quote number 11193 IFS
- III. **Work/Requirements:** The Contractor shall provide the necessary labor, security, safety measures, and all federal, state, and/or local permits as required to perform the following:
 - Recover refrigerant in circuit #2, original charge not recorded on unit from install.
 - Recommend replacing refrigerant due to compressor grounding and possible contamination.
 - Replace breaker and contactor due to multiple trips and possible damage.
 - Replace (3) compressors in circuit #2 and drier/filter core.
 - Pressure test system.
 - Pull vacuum and charge system per sub-cool with virgin refrigerant.
 - 50 pounds (NOT included in quote - customer to supply), additional refrigerant needed will need to be billed or customer will need to supply.
 - Test system for proper operation.
- IV. **Schedules/Timelines:** Regular working hours shall be Monday – Friday between the hours 8:00am–5:00pm. All work is to be complete within 60 days of Notice to Proceed (NTP).
- V. **Transmittal/Delivery/Accessibility:** All communications related to this contract shall be addressed to the county representative. County Representative Claude Eubanks will provide access to property. Contact the county representative 30 minutes prior to arrival to provide access to facility and locked gates.
- VI. **Payment:** Invoice from vendor must reference funds reservation number assigned to this contract, location of service, description of service, vendor’s remittance address, completion dates, warranties, permits or additional submittals and shall be forwarded to County Representative for review. The Contractor is to include with each pay request, the completed MWBE, Appendix E Form (if applicable).).

Invoices for services/goods should be transmitted via email to GeneralServices@dconnc.gov AND/OR mailed to 310 South Dillard St. Durham, NC 27701.

If there are any delivery, freight or shipping costs related to this work, this information must be clearly identified and indicated in proposal and on invoice.

These reports are material obligations of the contractor. Authorization of payments will be forwarded to Finance Department dependent on receipt of all forms. The County may withhold payment if required reports or submittals are not received. Upon payment authorization, invoices will be paid net 30.

VII. Warranty: All work under this contract shall be guaranteed against defects resulting from the use of substandard materials, equipment, or workmanship for one (1) year from the date of final acceptance by the County. Any work which has to be corrected shall be serviced and repaired by the Contractor at no additional cost to the County. If there are any other provisions, agreements, documents, or terms between the parties that are contrary to this contract and its attached Scope of Work, this contract and Scope of work shall govern except that, if there are any discrepancies between this warranty and any other written warranties, the stronger/lengthier warranty shall apply.

VIII. Safety Practices: Contractor shall instruct all employees performing work to utilize industry standard safety methods to ensure staff keep work areas free from hazards as not to cause harm to themselves, county employees or public.

- Contractor is to provide all necessary Personal Protective Equipment (PPE), accident prevention signs and tags, illumination requirements, fall protection etc. to personnel performing work on County property.
- Contractor will comply with all applicable laws, ordinances, and rules and regulations for the safety of persons and property.
- Contractor is to provide all Safety Data Sheets (SDS) for products utilized or kept onsite during service. These are to be filed on site and with County Representative.
- Contractor agrees not to use any materials which do not meet necessary requirements for the safety of the public and the County of Durham.
- All liquid materials stored in County facilities must be held in original containers and/or clearly labeled. No unmarked containers permitted.

IX. County Designated Representative(s):

Name: Claude Eubanks

Phone Number: (919) 201-1201

Email: ceubanks@dconc.gov



2025 16th Street, Greensboro, NC 27405

Date: May 8, 2025			
Attention:		Quote #: 11193 IFS Inside Sales: Pete Irby	
Address: Durham County General Services 310 South Dillard St Durham, NC 27701		Job Location: Durham Center for Senior Life 406 Rigsbee Avenue Durham, NC 27701	
Project: Replace (3) compressors in circuit #2		Equipment:	
Description: Recover refrigerant in circuit #2, original charge not recorded on unit from install. Recommend replacing refrigerant due to compressor grounding and possible contamination. Replace breaker and contactor due to multiple trips and possible damage. Replace (3) compressors in circuit #2 and drier/filter core. Pressure test system. Pull vacuum and charge system per sub-cool with virgin refrigerant. 50 pounds (NOT included in quote - customer to supply), additional refrigerant needed will need to be billed or customer will need to supply. Test system for proper operation.			
Delivery Terms: FOB Factory, freight not included unless specified.			
Payment Terms:	Net 30	Total Net Price:	\$53,292.42
Clarifications and Exclusions: <ul style="list-style-type: none"> • Sales tax is included. • Freight is not included. • This proposal may be subject to fuel and material surcharges at the time of acceptance. • All work will be performed in compliance with all OSHA and customer safety guidelines. • Brady may withdraw this proposal and re-submit if not accepted within 10 days from issue date. 			
Customer Acceptance			
Customer Signature: _____		Date: _____	

Name: _____



Brady is pleased to provide the enclosed proposal for your review and approval. This bid is based on information you provided to us per our site visit. Any revisions required at a later date will be subject to price review at that time. Our proposal is as follows:

Scope of Quote:

Recover refrigerant in circuit #2, original charge not recorded on unit from install. Recommend replacing refrigerant due to compressor grounding and possible contamination. Replace breaker and contactor due to multiple trips and possible damage. Replace (3) compressors in circuit #2 and drier/filter core. Pressure test system. Pull vacuum and charge system per sub-cool with virgin refrigerant. 50 pounds (NOT included in quote - customer to supply), additional refrigerant needed will need to be billed or customer will need to supply. Test system for proper operation.

TOTAL PRICE ----- \$53,292.42

The above price does not include additional repair parts, labor, or refrigerant, if required.

Note: The above price is based on the work being performed during normal working hours which are Monday - Friday from 7:30am to 4:30pm.

Should you have any further questions, please do not hesitate to contact me at (800) 849-1915.

Thank you,

Pete Irby

Please send all purchase orders to insidesales@bradyservices.com or fax to (336) 554-7605.

Additional services required not detailed in this proposal to be executed at prevailing labor, mileage, and material rates, plus overtime as applicable.

Brady Trane Service, Inc. is the sole shareholder of ICON, Brady Integrated Security, Inc., Brady Parts, Inc., Brady Services, Inc., Brady Sales and Service, Inc., and J. Brady Contracting, Inc.

Brady Trane Service, Inc. is an NC Engineering Corporation and holds the following licenses: NC Engineering (License #F-1317), NC Mechanical Contractor (License #20378- Heating Group 1 Class I, Heating Group 2, Heating Group 3- Class I and Plumbing Class I), SC Engineering (COA #5293), SC Mechanical Contractor (License #102151), SC General Contractor (License #119308), and SC Boiler Classification (under SC General Contractor License #119308).

J. Brady Contracting, Inc. is an NC Unlimited General Contractor (License #63159).

Brady Services, Inc. holds the following licenses: NC Electrical Contractor (License #U.16761) and GA Boiler (COA #B-3873).

Brady Integrated Security, Inc. holds the following licenses: NC Burglar Alarm (License #2595-CSA) and NC Low Voltage Electrical (License #SP.FA/LV.25289).

GENERAL TERMS AND CONDITIONS

This Agreement (the "Agreement"), between Brady Trane Service, Inc. ("Brady") and the Customer ("Customer"), individually referred to as a "Party" and collectively referred to as the "Parties," is made on these terms and conditions. This Agreement shall not include any additional or conflicting terms and conditions that may be contained in the Customer's purchase order or other form, all of which additional or conflicting terms and conditions are hereby rejected by Brady. If there is a conflict in the terms and conditions of this Agreement and another agreement, the terms and conditions of this Agreement shall control. Further, the Customer acknowledges and agrees that any purchase order issued by the Customer, in accordance with this Agreement, will only establish payment authority for the Customer's internal accounting purposes. Any such purchase order will not be considered a counteroffer, amendment, modification, or other revision to the terms and conditions of this Agreement. No waiver, alteration or modification of this Agreement shall be valid, unless made in writing and signed by an authorized representative of Brady.

1. Acceptance and Prices

This Agreement is subject to acceptance by the Customer within thirty (30) days from the date of the proposal. If acceptance of this Agreement is delayed or modified, prices are subject to adjustment.

2. Payment

Terms of payment are subject at all times to prior approval by Brady's financial department, and payment is due thirty (30) days from the date of the invoice. Brady reserves the right to add interest at a rate of 1½% per month, or the highest rate allowable by law, to any delinquent account balances after ten (10) days. If Customer has not made a payment on time, Brady may at its option, and upon five days written notice to Customer, suspend or terminate service until all overdue payments are made.

In the event of default in payment, the Customer agrees to pay all costs of collection incurred by Brady, including but not limited to, collection agency fees, reasonable attorney's fees and court costs.

If the Customer terminates this Agreement prior to the end of the term, the contract amount will be pro-rated based on services completed. Any payments will become due and payable at that time.

3. Scope of Agreement; Exclusions

Any services, including inspections, repairs or maintenance, not expressly included in this Agreement, are expressly excluded. Exclusions include but are not limited to:

- a. Repairs or service required as a result of problems caused by the Utility Service needed for operation of the equipment or any failure, mis-adjustment or design deficiencies in other equipment or systems not specifically included in this Agreement.
- b. Repairs or service required as a result of recommendations, regulations or other requirements of insurance companies, Federal, State, Municipal or other government agencies or bodies or other similar authorities.
- c. The inspection, maintenance, repair or replacement of non-maintainable components, e.g.: castings, heat exchanger shells, duct work, boiler shell and tubes, cabinets, boiler refractory material, main power service and electrical wiring, piping, tube bundles, valve bodies, coils, structural supports, oil storage tanks and similar items.
- d. The inspection, maintenance, repair or replacement of motor starting equipment and interconnecting power wiring, unless specifically included as part of the equipment.
- e. Structural alterations to the premises where the equipment is installed as necessary for the performance of Brady's obligations under this Agreement.
- f. The performance of services outside of normal business hours 7:30am – 4:30pm (unless otherwise expressly provided).
- g. **LEGIONELLA EXCLUSION: LEGIONELLA CAN BE PRESENT IN ANY WATER TREATMENT SYSTEM EVEN WITH REGULARLY SCHEDULED TESTING. WHILE LEGIONELLA IS CONTROLLABLE WITH REGULARLY SCHEDULED TESTING AND A PROPERLY MAINTAINED BIOCIDES PROGRAM; IN NO EVENT SHALL BRADY BE LIABLE FOR LEGIONELLA BEING PRESENT IN THE TREATED COOLING TOWERS.**

4. Brady Responsibilities

- a. Brady shall carry out its obligations with reasonable promptness and in a workmanlike manner, in accordance with industry standards generally applicable in this area.
- b. Brady may decline to provide any services under this Agreement made necessary by Customer's failure to comply with its obligations under section 5.
- c. Brady may decline to work on any systems where Customer has permitted untrained personnel to perform services and adjustments on the systems.
- d. Brady may decline to work on any systems where safety systems have been altered or bypassed.
- e. Brady may decline to work on any systems where fuel oil 'pooling', gas odors, exposed piping, suspected asbestos or other safety hazards exist.
- f. If Brady's technicians are required to handle refrigerants, they shall be certified to handle such refrigerants in accordance with the Code of Federal Regulations, Title 40, Part 82 and Subpart F. Additionally, all refrigerant recovery equipment used by Brady's technicians are certified by, and registered with, the US EPA.

5. Customer Responsibilities

- a. Customer shall properly operate and maintain the equipment in accordance with the applicable operating manuals and recommended procedures, and ensure that qualified personnel are provided for such operation.
- b. Customer shall provide and maintain appropriate environmental conditions for equipment operation, including suitable locations for the installation and storage of chemical treatment equipment and supplies.
- c. Customer shall assume full responsibility for safety training and use of Personal Protective Equipment by Customer's personnel responsible for the operation or maintenance of boilers and boiler system appurtenances and Customer's personnel handling or using water treatment equipment or supplies.
- d. Customer shall prevent untrained personnel from performing service, maintenance or adjustment on the boiler systems.
- e. For new equipment associated with the boiler systems, Customer shall provide any start up in accordance with manufacturer's requirements and provide copies of startup documentation to Brady.

- f. Customer shall properly operate and maintain ancillary equipment associated with the services provided, in accordance with the applicable operating manuals and recommended procedures, and ensure that qualified personnel are provided for such operation.
- g. Customer shall provide Brady personnel with the usual required utilities (water, electricity, compressed air, etc.) and special tools and equipment normally used for such services unless restricted specifically in the quote.
- h. Customer shall promptly report unusual equipment operating conditions or operation to Brady.
- i. Customer shall furnish Brady personnel with sufficient service access space, as well as safe, clean and unobstructed access to all equipment to be serviced.
- j. Customer shall provide professional ancillary services, (i.e. systems water treatment, etc.) not included in the Agreement, in accordance with Brady's reasonable written recommendations.
- k. Customer shall disclose in writing to Brady any known environmental risks or hazards, including asbestos, mold, or other biological hazards.
- l. Customer shall disclose in writing to Brady any chemical spills or chemical spill cleanup associated with or relating to Water Treatment Services after such systems and services have been installed and made operational.
- m. Customer shall provide suitable access to drains and drainage systems appropriate for flushing of chemically treated systems.
- n. Customer shall disclose flooding or flooding damages arising from pump failures, broken or corroded piping, chemical treatment tubing failure, or other system failures associated with systems service with or relating to Water Treatment Services.
- o. Customers receiving water treatment shall provide new equipment start up in accordance with manufacturer's requirements, including initial chemical treatments for passivation or other appropriate system treatments, and provide copies of startup documentation to Brady.
- p. Customers receiving water treatment shall disclose in writing to Brady any changes to systems operations, including but not limited to:
 - 1. change in water supply [city water to reclaimed water], or
 - 2. equipment operation failure impacting proper water flows or preventing treatment measurement requirements, or
 - 3. termination or changes to Customer provided treatment systems.
- q. Customers receiving water treatment shall disclose environmental conditions impacting the operation of systems subject to Water Treatment Services, including exposure to boiler or generator exhaust, bacterial growth, legionella or SRBs.

6. Asbestos and Hazardous Materials

Brady expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Brady become aware of or suspect the presence of Hazardous Materials, Brady may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Brady. Brady shall be required to resume performance of the services only when the affected area has been rendered harmless.

7. Major Repairs

Major repairs, if covered, such as the dismantling of components, the opening of refrigeration systems, and the evacuation and recharging of the same, in the event of refrigerant loss, etc., will be performed during normal working hours, unless otherwise stated in the Agreement.

Major repairs related to boilers, if covered, such as the dismantling of components, may result in additional fees for additional boiler inspection and testing and services, unless such additional testing and services are otherwise stated in the proposal.

Major repairs related to water treatment, if covered, such as the dismantling of components, may result in additional fees for additional chemical testing and treatment services, unless such additional testing and services are otherwise stated in the proposal.

8. Repairs By Others

Unless made by or approved by Brady in writing, any changes, adjustments, service or repairs made to the equipment may, at Brady's option, terminate Brady's obligation to render further service to the equipment so affected. In such case, no adjustment to the service fee shall be made and no refund of any portion of the service fee shall be made.

9. Unusual Circumstances

Brady shall not be liable for delays in or failure to render services, including water treatment services and chemical testing, additional boiler inspections, boiler testing and services, or the delivery of any equipment or parts, due to fire, flood, strike or other labor difficulty, act of God, act of any Governmental Authority or of Customer, riot, war, embargo, fuel or energy shortage, wrecks or delay in transportation, inability to obtain necessary labor, materials or equipment from usual sources, or due to any cause beyond Brady's reasonable control.

In the event of delay in performance due to any such cause, the date of delivery or time of completion will be extended by the period of time reasonably necessary to overcome the effect of such delay. If the equipment or parts included in this Agreement become temporarily or permanently unavailable for reasons beyond the control of Brady, Brady shall be excused from furnishing said equipment or parts and reimbursed for the difference between cost of equipment or parts unavailable and the cost of an available reasonable substitute.

10. Limitation of Liability/Indemnification

Customer's exclusive remedy and Brady's exclusive liability under this Agreement or otherwise (including negligence) shall be for direct damages, which shall in no event exceed so much of the purchase price as is applicable to the portion of the particular services with respect to which damages are claimed. In no event shall Brady be liable to Customer, nor shall Brady have any obligation to indemnify Customer, for any other loss or damage, or for any incidental, special or consequential damages of any kind, or for the loss of use of Customer's facilities, its loss of revenue, or for any similar or dissimilar consequential damages with regard to the operation, non-operation or failure of the equipment, or damage to property or other injury arising from this Agreement. This exclusion applies regardless of whether such damages or indemnification are sought based on breach of warranty, breach of contract, negligence, strict liability in tort, or any other legal theory. This section shall only apply in a manner and to the extent permitted by North Carolina law, including the prohibition against exclusive emoluments.

In no event shall Brady be liable for any damages (whether direct or indirect) resulting from hazardous materials, mold, fungus, bacteria, microbial growth, or other contaminants or airborne biological agents. Additionally, Brady shall not be liable for any damages (whether direct or indirect) resulting from work performed on boiler systems where in the Customer has permitted untrained personnel to perform

services and adjustments on the boiler systems, or on systems where safety systems have been altered or bypass or on any systems where fuel oil 'pooling', gas odors, exposed piping, suspected asbestos or other safety hazards exist.

11. Discovery Period

No suit or action shall be brought against Brady or its agents, employees, subsidiaries, affiliates or parents (both direct and indirect) more than one year after the incident that resulted in the loss, injury or damage occurred, or the shortest duration permitted under applicable law if such period is greater than one year. The provisions of this section shall apply to and benefit Brady and its agents, employees, contractors, subsidiaries, affiliates, and vendors. If this Agreement provides for a direct connection to a municipal police or fire department or other organization, then that department or other organization may also invoke the provisions of this section against any claims due to any failure of such department or organization. Brady is not responsible for the preservation of any computer programs or data and Customer is responsible for maintaining adequate back-ups.

12. Warranty

Brady's warranty with respect to manufactured material supplied is limited to the manufacturer's warranty (if any). In no event shall Brady be liable to Customer for any breach of the manufacturer's warranty or for any consequential or special damages or for transportation or other expenses, which may arise in connection with any defective goods.

Brady's warranty with respect to labor is that the services have been properly performed. The labor warranty is for a period of 90 days from completion and Brady's obligation under this warranty is limited to correcting any improperly performed labor.

Brady makes no warranty with respect to systems performance or emissions readings between preventive maintenance inspections and exhaust gas analysis. Additionally, Brady makes no warranty or representation with respect to work performed on systems where in the Customer has permitted untrained personnel to perform services and adjustments on the boiler systems, or on systems where safety systems have been altered or bypass or on any systems where fuel oil 'pooling', gas odors, exposed piping, suspected asbestos or other safety hazards exist.

THESE WARRANTIES ARE EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

13. Exceptions to Warranty

The following "Conditions" are not covered by Brady's warranty:

- a. Damage or extra service needed as the result of accidents, acts of God, lightning, strikes, riots, floods, terrorism, acts of war, alteration, misuse, tampering or abuse, adjustments, repairs or maintenance not done by Brady or from parts, accessories, attachments or other devices not furnished by Brady;
- b. Customer's failure to properly follow operating instructions provided by Brady;
- c. Adjustments necessitated by misalignment of video cameras, improper adjustment of monitor brightness and contrast tuning dials or insufficient light on the area viewed by the camera(s);
- d. Trouble due to interruption of Telecom Service;
- e. Battery failure;
- f. Devices designed to fail in protecting the Customer's systems, such as, but not limited to, fuses and circuit breakers; or
- g. Changes to the Customer's system requested by Customer.

If Customer requests service under the Warranty and Brady's representative finds that one of the "Conditions" has led to the inoperability or apparent inoperability of the Customer's system, or any component, Brady may bill Customer for the service call whether or not Brady actually works on the Customer's system. If repairs are required due to one of the above "Conditions," Brady will charge Customer for such work on a time and materials basis at Brady's then applicable rates for labor and materials.

14. Non-solicitation of Employees

Each Party acknowledges that the other Party has expended significant time, effort and expense in the hiring, training, and retention of its employees in conjunction with providing specialized services, such as those provided in this Agreement, and therefore shall not, during the term of this Agreement and for a period of one year thereafter, either directly or indirectly, solicit for employment or employ any current or former employee of the other within one year of such termination of employment date, with whom such Party has had any contact during the course of this Agreement.

15. Additional Services

Service fees are premised on the equipment being in operable and maintainable condition. If an inspection by Brady prior to or during the performance of services reveals that additional services or repairs are necessary, outside the scope of this Agreement, Brady shall notify Customer.

Customer may instruct Brady to perform such repairs in writing, and Brady shall perform those services or repairs at the currently established rates (including rates reflecting overtime labor costs for services provided outside normal business hours). These additional services will be billed to the Customer pursuant to the terms of this Agreement.

If the Customer does not authorize such services or repairs, Brady may in writing, at Brady's option, terminate Brady's obligation to render further service to the equipment so affected. In such case no adjustment to the service fee shall be made and no refund of any portion of the service fee shall be made.

16. Provision Applicable to Security, Intelligent Services, and Building Clarity

a. Definitions

1. "Malicious Code" means any virus, worm, time bomb, Trojan horse or other code, file, script, agent, software program or device that may prevent, impair, or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data; or adversely affect the user experience.

2. "Customer Data" means all Customer electronic data or information collected through and stored in connection with Brady's data monitoring and smart building analytics.

3. Subscription Term. The initial data monitoring and smart building analytics term commences on the date that Brady receives access to the Customer data and continues for as long as set forth in the data monitoring or smart building analytics proposal, subject to automatic renewal for succeeding 12-month terms.

b. Customer's Responsibilities

1. Customer shall not permit any third party access to Brady's data monitoring, smart analytics, or physical hardware deployed at Customer's facilities to enable operation of Brady's data monitoring or smart analytics, except as expressly permitted herein or in an Order Form

2. Customer shall not modify or create derivative works based on any part or content of Brady's data monitoring or smart building analytics.

3. Customer shall not copy, frame or mirror any part or content of Brady's data monitoring or smart building analytics, other than copying or framing on Customer's own intranets or otherwise for Customer's own internal business purposes.

4. Customer shall not reverse engineer, disassemble or decompile Brady's data monitoring.

5. Customer shall not access Brady's data monitoring or smart building analytics in order to build a competitive product or service or to copy any features, functions or graphics of Brady's data monitoring or smart building analytics.

6. Customer shall not make Brady's data monitoring or smart building analytics available to anyone other than the users identified by the Customer.

7. Customer shall not sell, resell, rent, license, share or lease Brady's data monitoring or smart building analytics.

8. Customer shall not use Brady's data monitoring or smart building analytics to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights.

9. Customer shall not use Brady's data monitoring or smart building analytics to store, distribute or transmit Malicious Code.

10. Customer shall not interfere with or disrupt the integrity or performance of Brady's data monitoring, smart building analytics or third-party data contained therein.

11. Customer shall not attempt to gain unauthorized access to Brady's data monitoring or smart building analytics or their related systems or networks.

12. Customer may access the smart building analytics solely to view reports of Customer's own data generated in connection with the smart building analytics and/or to run analyses of Client Data within the scope of the smart building analytics.

13. Customer shall make Customer Data available as reasonably necessary for Brady to provide the services in the proposal.

14. Customer shall be solely responsible for the setup, operations, maintenance, security and performance of the Customer's computer network, modifications to Customer's network, network security, firewall settings, and appropriately segregating its customer and business information to limit Brady's access to those portions of its network, if any, required to perform the services in the proposal.

15. Customer is solely responsible for the accuracy, quality, legality, reliability, and appropriateness of all electronic data made available hereunder.

16. Customer shall not disclose or otherwise provide Brady with access to any information of any type (including any research, research results, tools, methods, analyses, reports, updates, customizations or other materials or information utilizing Customer Data), except to the minimum extent necessary for Brady to perform the Services.

17. Customer shall not disclose or otherwise provide Brady with access to information that identifies or could be used to identify an individual person, unless Brady approves in writing in advance.

c. Availability

Brady shall exercise reasonable care in providing data monitoring and shall use commercially reasonable efforts to make the service available at all times. Data monitoring and smart building analytics are accessible via the internet and thus subject to limitations, delays, and other problems inherent to the operation of internet and electronic communications. Brady is not responsible for delivery failures or other damage resulting from such problems. Where possible, Brady will notify user(s) identified by the Customer during execution of the Agreement to be the primary contact for Customer, and will raise support issues including the non-availability of Brady's data monitoring or smart building analytics. It is the responsibility of the Customer to provide this information to all users of Brady's data monitoring or smart building analytics associated with Customer. Brady shall be entitled, without any liability, to carry out ongoing maintenance, updating or alterations to Brady's data monitoring and smart building analytics that may result in loss of access from time to time without prior notice. Service features that interoperate with Brady's software depend on the continuing availability of the third-party programs for use with the Brady's data monitoring and smart building analytics. If said parties cease to make the program available on reasonable terms for Brady's data monitoring or smart building analytics, Brady may be interrupted from providing such features without entitling the Customer to any refund, credit, or other compensation.

d. Data Collection

Where Customer has placed an order that includes Brady's data monitoring, data will be collected from the designated meters, loggers, systems, or devices and imported into Brady's data monitoring. It is Customer's responsibility to inform Brady of any changes to their internal network, internet connection, control system, or anything that might affect Brady's ability to collect data for smart building analytics. If any such changes have occurred, Customer should raise the issues as a request for support through the local Brady office. Customer is free to request export of its own data from Brady's data monitoring at any time.

e. Ownership of Data

All data relating to the performance and condition of Customer building systems that Brady collects in connection with the Brady's data

monitoring and smart building analytics shall be owned by Customer, provided that Customer grants to Brady the irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to use, reproduce, display, distribute internally or externally and prepare derivative works based upon any such data Brady collects from Customer. Brady shall not use or publish such data in any way that identifies Customer as the source of that data without Customer's prior written consent. The data Brady collects from Customer will not include any personal or individual information.

f. Data Retention

Upon Customer's written request, Brady will endeavor to provide an electronic copy of data collected from Customer through data monitoring, subject to availability. Brady will use commercially reasonable efforts to store Customer's data obtained through data monitoring for up to 2 years. There is no guarantee as to the availability of the data.

g. Communications- Analog Modem Facilities

Customer authorizes Brady to utilize Customer's telephone line to provide data monitoring and smart building analytics and acknowledges that, unless an exclusive telephone line has been provided for performance of the services, the telephone line may be unavailable for Customer's use for extended periods of time while data is being collected from Customer's building systems and equipment. Brady is not responsible for any adverse impact to Customer's communications infrastructure, including but not limited to computers, BAS hardware or peripheral hardware. Customer understands that Brady will not be able to collect data when the telephone line or other transmission mode is not operating or has been cut, interfered with or is otherwise damaged or if Brady is unable to acquire, transmit or maintain a connection over Customer's telephone service.

h. Communications- Ethernet

Customer authorizes Brady to utilize Customer's network infrastructure to provide the contracted services and acknowledges that Brady is not responsible for any adverse impact to Customer's communications infrastructure. Customer understands that Brady will not be able to collect data when network issues do not allow for successful communications between Brady data collection devices and the data sources. Interruption of external Internet communications of longer than 24 hours may result in loss of data and degradation of service levels. Interruption of communications can be classified as failure of transmitting or receiving packet transmissions, interfered- with or is otherwise damaged or if Brady is unable to acquire, transmit or maintain a connection over network or the internet for any reason including network or ISP outage or other network/ISP problems such as congestion or downtime, routing problems, or instability of signal quality.

i. Logging and Data Mining

Customer grants Brady the unrestricted right, but not the obligation, to log web addresses and/or mine other information and/or data relating to services and information accessed or requested (a) to provide better support, services and/or products to users of Brady products and services, (b) to verify compliance with the terms of the Agreement, (c) for use by Brady for statistical or other analysis of the collective characteristics and behavior of users or equipment, (d) to backup user and other data or information and/or provide remote support and/or restoration, (e) to provide or undertake: engineering analysis; failure analysis; warranty analysis; energy analysis; predictive analysis; service analysis; product usage analysis; and/or other desirable analyses, including histories or trending of any of the foregoing, and (f) to otherwise understand and respond to the needs of the users of Brady products and services.

Any data logging, mining or other activities performed by Brady is intended solely for Brady's own non-critical and non-emergency business purposes, and not for emergency alert, emergency response or any other purpose. Brady shall have no obligation to detect, monitor for, respond to, or alert authorities of any emergency. In case of an emergency, Customer is solely responsible to contact local emergency responders (such as the fire department, paramedics, or police department).

j. Anti-Virus Prevention:

Brady maintains antivirus checking software on the network and has a strict policy on checking all software loaded onto Brady's environment. However, due to the nature of computer viruses, Brady is not able to guarantee that provision of data monitoring and smart building analytics will be virus free. It is Customer's responsibility to ensure that adequate security and antivirus software is installed on the Customer's environment.

k. Disaster Recovery

In the event that Brady experiences a significant problem with data monitoring or smart building analytics that results in or is expected to result in the loss of service for in excess of 5 working days, Brady may transfer the data monitoring service and smart building analytics to an alternative hosting environment. In the event that Brady transfers the service to an alternative hosting environment, Customer acknowledges that the following may occur: There may be a loss of data imported to Brady after the last database backup was taken; data monitoring and smart building analytics may be provided by a different IP address; the IP address registered against the domain name may be changed.

l. Privacy

Brady will make commercially reasonable efforts to ensure that data and other parameters are not visible or accessed by other customers. Customer acknowledges that the very nature of communication via the internet restricts Brady from offering any guarantee to the privacy or confidentiality of information relating to Customer passing over the internet. In gaining access via the internet, Customer also acknowledges and accepts that electronic communication may not be free from interference by unauthorized persons and may not remain confidential. Customer therefore accepts that access and storage of data is at its own risk. Customer shall immediately report any breach in privacy to Brady.

m. Intellectual Property

Brady retains and reserves all rights, title and interest in and to its intellectual property, including without limitation all Brady software, algorithms, materials, formats, interfaces and proprietary information and technology, and all other Brady products, data monitoring and smart building analytics, and including all copyright, trade secret, patent, trademark and other intellectual property rights related to the foregoing. No rights are granted to the Customer hereunder with respect to the data monitoring subscription or otherwise, other than as expressly set forth herein.

~~n. Indemnification~~

~~Customer shall indemnify and hold Brady harmless from and against any loss, damage, cost (including the cost of any settlement), expense or any liability suffered or incurred by Brady arising from or in connection Brady's possession or use of data, information or articles~~

~~supplied by Customer to Brady, including the infringement of any~~ intellectual property rights resulting from the use or possession by Brady of data, information or articles supplied by Customer to Brady.

o. Cyber Security

Brady is not responsible for protecting against cyber security breaches to any security system, either installed or serviced by Brady, even if any such breach is transacted through Brady supplied equipment. It is the Customer's responsibility to take the necessary precautions to protect the system and/or the server/computer/head-end from viruses, worms, Trojan horses, and other harmful or destructive content. Brady disclaims any responsibility for any harm resulting from the use by unauthorized visitors to the Customer's system, or from any downloading by those unauthorized visitors.

If Brady installs a security system, the Customer shall provide the security system's passwords and privileges to Brady. No default passwords shall be left in use once the security system is completely installed.

p. Brady Not An Insurer

The amounts Brady charges a Customer are not insurance premiums. Such charges are based upon the value of the services, system and equipment provided and are unrelated to the value of Customer's property, the property of others located in Customer's premises, or any risk of loss on Customer's premises.

Brady's services, systems and equipment do not cause and cannot eliminate occurrences of the events they are intended to detect or avert. **BRADY MAKES NO GUARANTY OR WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, THAT THE SERVICES, SYSTEM OR EQUIPMENT SUPPLIED WILL DETECT OR AVERT SUCH EVENTS OR THE CONSEQUENCES THEREFROM.** Accordingly, Brady does not undertake any risk that Customer's person or property, or the person or property of others, may be subject to injury or loss if such an event occurs. The allocation of such risk remains with Customer, not Brady. Insurance, if any, covering such risk shall be obtained by Customer. Brady shall have no liability for loss, damage or injury due directly or indirectly to events, or the consequences therefrom, which the system or services are intended to detect or avert. Customer shall look exclusively to its insurer and not to Brady to pay Customer in the event of any such loss, damage or injury. Customer releases and waives for self and its insurer all subrogation and other rights to recover from Brady arising as a result of paying any claim for loss, damage or injury of Customer or another person.

q. Compatibility Issues

If the Customer is receiving security services or intelligent services via a connection, Brady may assess additional charges, if unable to connect to the Customer's network or if any additional equipment is required to facilitate connectivity between the network and the equipment.

r. Runaway Signals

In the event that a Customer's access control system is producing excessive false or "runaway" signals, the Customer will be notified of the situation. Any additional labor or equipment costs incurred as a result of a Customer's system producing excessive or "runaway" signals may be billed to the Customer. Brady reserves the right to isolate and cease communication of any remote location in the event that location is interrupting the ability for Brady to conduct regular business.

s. False Alarms

Brady is not responsible for fines resulting from false alarms, and any suspension of police response due to false alarms shall not affect the obligations of the Customer under this Agreement. In the event that Brady receives a false alarm fine, said fine will be billed to the Customer and the Customer hereby agrees to take responsibility for paying the fine.

t. Termination

In addition to any other remedies available to Brady, Brady may terminate this Agreement and discontinue any service(s) if:

1. Customer fails to follow the operating instructions provided by Brady, resulting in an undue number of false alarms or system malfunction; or
2. In Brady's sole opinion, the premises in which the system is installed is unsafe, unsuitable, or so modified or altered after installation as to render continuation of service(s) impractical or impossible.

Brady will not be liable for any damages or subject to any penalty as a result of any such termination. If for any reason Brady is unable to continue to provide the service(s) for which it is hereunder contracted, the Customer will have the right to terminate its obligation without penalty.

17. Other Charges; Remedies; Termination

a. There may be a service charge to Customer for cancelled installation/service appointments if Customer cancels less than 24-hours prior to dispatch, or if Brady's representative is sent to the Customer's premises in response to a service call for false alarm or system malfunction caused by Customer's operation contrary to instructions, failure to close or properly secure a window, door or other protected point, or improper adjustment of monitors or accessory components.

b. Failure to pay amounts when due shall give Brady, in addition to any other available remedies, the right to terminate this Agreement and to charge interest at the highest legal rate on delinquent amounts. Customer agrees to pay all costs, expenses and fees of Brady's enforcement of this Agreement, including collection expenses, court costs, and attorneys' fees. Installation charge(s) are based on Brady performing the installation with its own personnel. If for any reason installation must be performed by outside contractors, installation charge(s) may be subject to revision.

c. In addition to any other remedies available to Brady, Brady may terminate this Agreement and discontinue any service(s) if:

1. Brady's contracted center is substantially damaged by fire or catastrophe or if Brady is unable to obtain any connections or privileges required to transmit signals between the Customer's premises, the Center or the Municipal Fire or Police Department or other first responder; or
2. Customer fails to follow Brady's recommendations for the repair or replacement of defective parts not covered under the Warranty.
3. Brady is unable to obtain or continue to support technologies, TeleCom Services, Communication Facilities, Equipment or component parts thereof that are discontinued, become obsolete or are otherwise not commercially available; or
4. Customer fails to make payments when due or otherwise breaches this Agreement.

Brady will not be liable for any damages or subject to any penalty as a result of any such termination. If for any reason Brady is unable to continue to provide the service(s) for which it is hereunder contracted, the Customer will have the right to terminate its obligation without penalty.

18. Assignment

Customer may not assign this Agreement. Brady may assign the work of this Agreement, subcontracting the whole of this Agreement, or subcontracting portions of this Agreement.

19. Changes

No modifications, additions or changes may be made to this Agreement, except in a writing signed by both parties.

20. Severability and Waiver

If any term or conditions of this Agreement are invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to either Party. Upon any such determination of invalidity, illegality or unenforceability, the Parties shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in an acceptable manner, to the end that the transactions contemplated by this Agreement are consummated to the extent possible. The failure of either Party to insist upon the performance of any of the terms of this Agreement at any time, or to exercise any right, shall not be construed as a waiver of such term or right.

21. Governing Law

This Agreement is made and interpreted under the laws of the State of North Carolina. North Carolina law shall govern this Agreement without regard to any competing choice of law provision. The state court of Guilford County shall be the sole and exclusive jurisdiction for any civil action arising out of this Agreement.

22. Notice

All notices shall be delivered either by e-mail, in person, or via certified mail to the Parties at the addresses listed below. If notice is sent via e-mail or in person, notice shall be considered received the same business day as the e-mail is sent or notice is delivered in person. If notice is sent via certified mail, notice shall be considered received 3 business days after notice is mailed.

Brady

Legal Name: Brady Trane Service, Inc.

Address: PO Box 13587

Attn: Legal Notices

Greensboro, NC 27415

E-mail: notices@bradyservices.com

Customer

Legal Name: _____

Address: _____

E-mail: _____

23. Miscellaneous Provisions

a. This Agreement contains the entire agreement between the parties.

b. Any taxes, excises, or other charges imposed on Brady by law, on or incident to the service or material provided under this Agreement, shall be paid by the Customer, or in lieu thereof, the Customer shall provide Brady with a tax exemption certificate acceptable to the taxing authorities.

c. Brady shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that Brady takes affirmative action, to employ and advance in employment, individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

Caruth, Joseph E.

From: Jason Patterson <Jason.Patterson@bradyservices.com>
Sent: Tuesday, November 5, 2024 12:15 PM
To: Caruth, Joseph E.; Crystal Patterson; Phillip Blanks
Cc: GSContracts; Eubanks, Claude C.
Subject: RE: Durham County - Brady Services Inc : Contract - Legal Redlines on Quote Terms and Conditions - VFD replacement

Good Afternoon,

We can accept that with no problem, both now and going forward. Thank you for your assistance and have a great day!

Jason Patterson
Brady, Contracts Analyst, Asst. Corporate Secretary

2025 16th Street
Greensboro, NC 27405
Phone: (336) 378-0670 / (800) 849-1915
Fax: (336) 379-9336
Mobile: (336) 455-2076



24/7 Service & Support: 800-849-1915

Tell Us How We're Doing:



Jason Patterson

CONTRACTS ANALYST

mobile: (336) 455-2076

address: 2025 Sixteenth St. Greensboro, NC 27405

e-mail: Jason.Patterson@bradyservices.com
bradyservices.com



From: Caruth, Joseph E. <jcaruth@dconc.gov>
Sent: Tuesday, November 5, 2024 12:09 PM
To: Jason Patterson <Jason.Patterson@bradyservices.com>; Crystal Patterson <Crystal.Patterson@bradyservices.com>; Phillip Blanks <Phillip.Blanks@bradyservices.com>
Cc: GSContracts <GSContracts@dconc.gov>; Eubanks, Claude C. <ceubanks@dconc.gov>
Subject: RE: Durham County - Brady Services Inc : Contract - Legal Redlines on Quote Terms and Conditions - VFD replacement

Good Afternoon,

Durham County Legal has replied with this proposal:

10. Limitation of Liability/Indemnification

Customer's exclusive remedy and Brady's exclusive liability under this Agreement or otherwise (including negligence) shall be damages, which shall in no event exceed so much of the purchase price as is applicable to the portion of the particular services respect to which damages are claimed. In no event shall Brady be liable to Customer, nor shall Brady have any obligation to indemnify Customer, for any other loss or damage, or for any incidental, special or consequential damages of any kind, or for the loss of or damage to Customer's facilities, its loss of revenue, or for any similar or dissimilar consequential damages with regard to the operation, no or failure of the equipment, or damage to property or other injury arising from this Agreement. This exclusion applies regardless of whether such damages or indemnification are sought based on breach of warranty, breach of contract, negligence, strict liability in tort, or any other legal theory. This section shall only apply in a manner and to the extent permitted by North Carolina law, including the prohibition on exclusive emoluments.

In no event shall Brady be liable for any damages (whether direct or indirect) resulting from hazardous materials, mold, fungus, microbial growth, or other contaminants or airborne biological agents. Additionally, Brady shall not be liable for any damages (whether direct or indirect) resulting from work performed on boiler systems where in the Customer has permitted untrained personnel to perform

4

services and adjustments on the boiler systems, or on systems where safety systems have been altered or bypass or on any system where fuel oil 'pooling', gas odors, exposed piping, suspected asbestos or other safety hazards exist.

~~If Brady is found liable for loss, damage or injury under any legal theory due to a failure of the Customer's services, system or equipment in any respect, its liability shall be limited to a sum equal to 10% of the Annual Service Charge or \$1,000, whichever is greater, as to the damages and not as a penalty, as Customer's sole remedy. The provisions of this Section shall apply no matter how the damage or injury or other consequence occurs, even if due to Brady's performance or non performance of its obligations under this Agreement or from negligence, active or otherwise, strict liability, violation of any applicable consumer protection law or any other fault on the part of Brady, its agents or employees. If any other person, including Customer's subrogating insurer, makes any claim or any lawsuit against Brady in any way relating to the services, system or equipment that are the subjects of this Agreement then Brady shall indemnify and hold Brady harmless from any and all such claims and lawsuits including the payment of all damages, expenses and attorneys' fees.~~

Thanks!

Joe Caruth | QC & Contract Specialist, General Services



DURHAM COUNTY
General Services

310 S. Dillard Street

Durham, North Carolina 27701

Office (919) 560-7220 | Fax (919) 560-0438 | Cell (919) 475-9938

jcaruth@dconc.gov

From: Jason Patterson <Jason.Patterson@bradyservices.com>
Sent: Tuesday, November 5, 2024 11:27 AM
To: Caruth, Joseph E. <jcaruth@dconc.gov>; Crystal Patterson <Crystal.Patterson@bradyservices.com>; Phillip Blanks <Phillip.Blanks@bradyservices.com>
Cc: GSContracts <GSContracts@dconc.gov>; Eubanks, Claude C. <ceubanks@dconc.gov>
Subject: RE: Durham County - Brady Services Inc : Contract - Legal Redlines on Quote Terms and Conditions - VFD replacement

Good Morning,

Yes, typo. Was referring to section 10. That is better, but we need the section referring to consequential damages. We can also make that exclusion mutual to both parties, with the disclaimer I referenced below added at the beginning of the section. That would make it perfectly acceptable. Thanks!

Jason Patterson
Brady, Contracts Analyst, Asst. Corporate Secretary

2025 16th Street
Greensboro, NC 27405
Phone: (336) 378-0670 / (800) 849-1915
Fax: (336) 379-9336
Mobile: (336) 455-2076



24/7 Service & Support: 800-849-1915

Tell Us How We're Doing:



Jason Patterson
CONTRACTS ANALYST

mobile: (336) 455-2076
address: 2025 Sixteenth St. Greensboro, NC 27405
e-mail: Jason.Patterson@bradyservices.com
bradyservices.com



From: Caruth, Joseph E. <jcaruth@dconc.gov>
Sent: Tuesday, November 5, 2024 11:13 AM
To: Jason Patterson <Jason.Patterson@bradyservices.com>; Crystal Patterson <Crystal.Patterson@bradyservices.com>; Phillip Blanks <Phillip.Blanks@bradyservices.com>
Cc: GSContracts <GSContracts@dconc.gov>; Eubanks, Claude C. <ceubanks@dconc.gov>
Subject: RE: Durham County - Brady Services Inc : Contract - Legal Redlines on Quote Terms and Conditions - VFD replacement

Good Morning,

Are you referring to §10 ? There doesn't seem to be any markup on §9.

How does the following changes work for you?

10. Limitation of Liability/Indemnification

~~Customer's exclusive remedy and Brady's exclusive liability under this Agreement or otherwise (including negligence) shall be for direct damages, which shall in no event exceed so much of the purchase price as is applicable to the portion of the particular services with respect to which damages are claimed. In no event shall Brady be liable to Customer, nor shall Brady have any obligation to indemnify Customer, for any other loss or damage, or for any incidental, special or consequential damages of any kind, or for the loss of use of Customer's facilities, its loss of revenue, or for any similar or dissimilar consequential damages with regard to the operation, non-operation or failure of the equipment, or damage to property or other injury arising from this Agreement. This exclusion applies regardless of whether such damages or indemnification are sought based on breach of warranty, breach of contract, negligence, strict liability in tort, or any legal theory.~~

In no event shall Brady be liable for any damages (whether direct or indirect) resulting from hazardous materials, mold, fungus, bacteria, microbial growth, or other contaminants or airborne biological agents. Additionally, Brady shall not be liable for any damages (whether direct or indirect) resulting from work performed on boiler systems where in the Customer has permitted untrained personnel to perform

4

services and adjustments on the boiler systems, or on systems where safety systems have been altered or bypassed or on any system where fuel oil 'pooling', gas odors, exposed piping, suspected asbestos or other safety hazards exist.

~~If Brady is found liable for loss, damage or injury under any legal theory due to a failure of the Customer's services, system or equipment, in any respect, its liability shall be limited to a sum equal to 10% of the Annual Service Charge or \$1,000, whichever is greater, as agreed upon damages and not as a penalty, as Customer's sole remedy. The provisions of this Section shall apply no matter how the loss, damage or injury or other consequence occurs, even if due to Brady's performance or non-performance of its obligations under this Agreement or from negligence, active or otherwise, strict liability, violation of any applicable consumer protection law or any other act or fault on the part of Brady, its agents or employees. If any other person, including Customer's subrogating insurer, makes any claim or brings any lawsuit against Brady in any way relating to the services, system or equipment that are the subjects of this Agreement then Customer shall indemnify and hold Brady harmless from any and all such claims and lawsuits including the payment of all damages, expenses and attorneys' fees.~~

Thanks!

Joe Caruth | QC & Contract Specialist, General Services



DURHAM COUNTY
General Services

310 S. Dillard Street

Durham, North Carolina 27701

Office (919) 560-7220 | Fax (919) 560-0438 | Cell (919) 475-9938

jcaruth@dconc.gov

From: Jason Patterson <Jason.Patterson@bradyservices.com>

Sent: Tuesday, November 5, 2024 9:49 AM

To: Caruth, Joseph E. <jcaruth@dconc.gov>; Crystal Patterson <Crystal.Patterson@bradyservices.com>; Phillip Blanks <Phillip.Blanks@bradyservices.com>

Cc: GSContracts <GSContracts@dconc.gov>; Alpaugh, David J. <dalpaugh@dconc.gov>

Caruth, Joseph E.

From: Williamson, Larissa S.
Sent: Thursday, May 8, 2025 11:14 AM
To: Caruth, Joseph E.
Cc: Conroy, Ian Q.; Swiatocha, Shawn P.; Eubanks, Claude C.; Keambiroiro, Motiryo; GSContracts
Subject: RE: EMERGENCY - Request for Contract Approval: Brady Services Inc - Compressors at Senior Center

The package is approved. Thanks!

LARISSA S. WILLIAMSON | COUNTY ATTORNEY



County Attorney

200 E. Main St., 4th Floor
Durham, NC 27701
Office: (919) 560-0715
Direct: (919) 560-0710
Mobile: (984) 260-5940
Fax (919) 560-0719

This electronic communication and attachments are from the Office of the Durham County Attorney and are confidential, privileged and intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient or the employee or agent responsible for delivering this information to the intended recipient, the unauthorized disclosure, copying, forwarding, printing, distribution, dissemination or use of the contents of this transmission is strictly prohibited. If you have received this transmission in error, please notify the sender immediately at the following e-mail address: lwilliamson@dconc.gov and delete the original message and its attachment.

From: Caruth, Joseph E. <jcaruth@dconc.gov>
Sent: Thursday, May 8, 2025 11:07 AM
To: Williamson, Larissa S. <lwilliamson@dconc.gov>
Cc: Conroy, Ian Q. <ICONROY@dconc.gov>; Swiatocha, Shawn P. <sswiatocha@dconc.gov>; Eubanks, Claude C. <ceubanks@dconc.gov>; Keambiroiro, Motiryo <mkeambiroiro@dconc.gov>; GSContracts <GSContracts@dconc.gov>
Subject: EMERGENCY - Request for Contract Approval: Brady Services Inc - Compressors at Senior Center
Importance: High

Good Morning,

I would like to request review and approval of the attached Emergency contract package for Brady Services to replace compressors at the Center for Senior Life building. The T&C on the quote have been swapped out for previously approved T&C from the vendor and DCo Legal for use in contracts for this FY (email from vendor attached to package)

From the Assistant Director of General Services Shawn Swiatocha:

BLUF (Bottom Line Up Front)- We have an emergent need for replacing three compressors on our HVAC unit at our Center for Senior Life, at the cost of \$53,292.

About 3 weeks ago the HVAC condensing unit failed and our staff got it running again. Claude and staff had reached out to multiple vendors for assessment and repair quote. Currently, only one of the vendors has responded to come on site and provide a quote. That quote is for \$53,292. Within the last week the unit has been failing multiple times a day and our staff is running out of time to be able to get it working again. This is making it difficult to keep the building at adequate space temperatures for their operations. I discussed the issue with Jonathan Hawley, our Purchasing Manager, he said we could use the obtained quote and write an emergency contract due to the life and health safety of the senior citizens that use the facility for daily activities and pharmacy assistance needs. We wanted you to be aware of the contract we are processing, due to the cost and nature of the repair, as well as having to go outside of the normal procurement process.

If you have any questions, please let us know.

Thanks!

Joe Caruth | QC & Contract Specialist, General Services



DURHAM COUNTY
General Services

310 S. Dillard Street

Durham, North Carolina 27701

Office (919) 560-7220 | Fax (919) 560-0438 | Cell (919) 475-9938

jcaruth@dconc.gov

Caution: Do not click links or open attachments unless you recognize the sender and know the content is safe.

Caution: Do not click links or open attachments unless you recognize the sender and know the content is safe.