

INTERNAL CONTRACT REQUISITION FORM



CONTRACTOR/VENDOR NAME: KONTEK SYSTEMS VENDOR #1000011121

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

JOSEPH ELLIOTT

jelliott@kontek.com

Print Name

E-Mail Address

TYPE OF CONTRACT: X Renewal Amendment _ Services X Goods _ Consulting _ Construction _ Lease _ Other _

SCOPE OF WORK: ENTERPRISE AV REPAIR/MAINTENANCE/SUPPORT

RFP/IFB/RFQ#: 65-RFP/0082021AMW UNIV. OF NC/KONTEK
Y22AMW/111/RFP

CONTRACT AMT: \$ 104,270.70 CONTRACT TERM: 01/01/2023-12/31/2023

FUNDING SOURCE/TITLE: County X State _ Federal _ Title/Name of Grant Funds _

UNIFORM GUIDANCE (UG) PROCEDURES APPLICABLE? YES NO X

ITEM LINE#	FUND	COST CENTER	G/L ACCOUNT	WBS ELEMENT (Grants/Projects Only)	GRANT NUMBER	MATERIAL GROUP#	TOTAL	I/D	ADDITIONAL INFO
1	1001010000	42001910000	5200160100			0069	\$ 104,270.70		
2									
3									

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

Signature: _____ Date: _____

Contract Requires BOCC Approval? YES X NO Date of BOCC Approval: _____

COUNTY ATTORNEY

Reviewing Attorney: _____ Date: _____

REQUISITIONER

PURCHASING MANAGER

DocuSign E-Signature: _____ Date: _____

Print Name/E-Mail: _____

Date: _____

DocuSign E-Signature

DEPARTMENT HEAD OR DESIGNEE

CHIEF FINANCIAL OFFICER

DocuSign E-Signature: _____ Date: _____

Print Name/Title: _____

E-Mail Address: _____

Date: _____

DocuSign E-Signature

COUNTY MANAGER

Date: _____

DocuSign E-Signature

CLERK TO THE BOARD

Date: _____

DocuSign E-Signature

FUNDS RESERVATION# _____

IS&T DEPT

Date: _____

DocuSign E-Signature

Purchasing Comments:

Additional Comments/Instructions by Department:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/22/2022

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 Arthur J. Gallagher Risk Management Services, Inc. 4700 Homewood Court, Suite 260 Raleigh NC 27609-5732	CONTACT NAME: Laura Moody PHONE (A/C, No, Ext): 919-582-4021 FAX (A/C, No): 919-847-3160 E-MAIL ADDRESS: Laura_Moody@ajg.com
INSURED Kontek Systems Inc PO Box 3812 Durham NC 27702	INSURER(S) AFFORDING COVERAGE INSURER A: Allmerica Financial Benefit Insurance Co INSURER B: Hanover Insurance Company INSURER C: Citizens Insurance Company of America INSURER D: INSURER E: INSURER F:
	NAIC # 41840 22292 31534

COVERAGES**CERTIFICATE NUMBER:** 983993721**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"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		Y	ZB6H52374500	2/27/2022	2/27/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	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		Y	AW6D841913	2/27/2022	2/27/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			UH6H52375600	2/27/2022	2/27/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	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 type="checkbox"/> Y <input checked="" type="checkbox"/> N	Y	WZ6H19083701	2/27/2022	2/27/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			LH6H51994500	2/27/2022	2/27/2023	Each Occurrence \$1,000,000 Aggregate \$1,000,000

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

RE: Court House Upgrades (9205 / 8401A & B / 9000). Waiver of Subrogation applies to certificate holder, as respects General Liability, Auto Liability and Worker's compensation policies pursuant to and subject to the policy's terms, definitions, conditions and exclusions.

CERTIFICATE HOLDER**CANCELLATION**

Durham County
200 East Main Street, 5th Floor
Durham NC 27701
USA

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.

From: [Cook, Kim](#)
To: [Foy, Laura](#)
Subject: RE: Contract for legal review
Date: Wednesday, October 12, 2022 9:20:16 AM
Attachments: [image001.png](#)

LEGAL APPROVED.

From: Darby, Willie S. <wdarby@dconc.gov>

Sent: Wednesday, October 12, 2022 9:12 AM

To: Cook, Kim <kcook@dconc.gov>

Subject: RE: Contract for legal review KONTEK

Hi Kim:

The KONTEK contract as well as the COI are hereby approved as to form.

Thanks.

Willie S. Darby | County Attorney

KIMBERLY M COOK | Senior Business Manager



200 East Main Street, 5th Floor
Durham, North Carolina 27701

Office (919) 560-7083 | Cell (984) 260-5761 | Fax (919) 560-7008 | kcook@dconc.gov

-
Be Safe, Wear a Mask, Wash Those Hands, and Practice Social Distancing (6ft)

***Not everything that is faced can be changed,
but nothing can be changed until it is faced."***

~James Baldwin

From: Foy, Laura <LFOY@dconc.gov>
Sent: Tuesday, October 11, 2022 11:48 AM
To: Cook, Kim <kcook@dconc.gov>
Subject: Contract for legal review

Kim,

Please find the attached Kontek AV enterprise contract for legal review for BOCC inclusion.

LAURA J FOY | Administrative Officer



200 East Main Street, 5th Floor
Durham, North Carolina 27701

Office (919) 560-7065 | Cell (919) 724-2331 | Fax (919) 560-7008 | lfoy@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.

**NORTH CAROLINA
DURHAM COUNTY**

SERVICE CONTRACT

THIS CONTRACT is made, and entered into this the 15TH day of OCTOBER, 2022 by and between the **COUNTY of DURHAM**, a political subdivision of the State of North Carolina, (hereinafter referred to as “COUNTY”), and **KONTEK SYSTEMS**, a corporation duly authorized to do business in the state of North Carolina, (hereinafter referred to as “CONTRACTOR”).

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

- 1. SCOPE OF SERVICES.** CONTRACTOR hereby agrees to provide the services and/or materials under this contract pursuant to the provisions and specifications identified in “Attachment 1” (hereinafter collectively referred to as “Services”). Attachment 1 is hereby incorporated herein and made a part of this contract. 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 that the terms of this contract are complied with. 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 **10/15/2022**. 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 10/15/2022 to 10/14/2023 unless sooner terminated as provided herein.
- 3. PAYMENT TO CONTRACTOR.** CONTRACTOR shall receive from COUNTY an amount not to exceed ONE HUNDRED FOUR THOUSAND TWO HUNDRED SEVENTY DOLLARS AND SEVENTY CENTS (\$104,270.70) 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 Purchaser. Payment will be processed promptly upon receipt and approval of the invoice by COUNTY.
- 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.

In consideration of the pursuit of current discussions and payment for the services, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

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 the 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 affect 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.

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.

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.

Termination of this Contract, under either section 8.1 or 8.2, 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.

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, sex, race, creed, national origin, 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, sex, race, creed, national origin, 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.
- 14. EMPLOYMENT ADVERTISING REQUIREMENTS.** CONTRACTOR shall post local job openings, in connection with this contract, with the City of Durham's Office of Economic and Workforce Development, the North Carolina Department of Commerce-Division of Employment Services (formerly ESC, Employment Security Commission) and with the Durham COUNTY Department of Social Services 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 to 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. A Contractor can appeal a negative determination by the Security Manager to the County Manager or his designee for final disposition. Appeals need to be submitted in writing to the contract 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 Representative. 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. A 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 restricted.

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 his 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 NC 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
ATTN: KONTEK SYSTEMS
318 HOLLAND STREET
DURHAM, NC 27701**

- 24. HEADINGS.** 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.
- 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.

Susan Tezai, Durham County Chief Financial Officer

CONTRACTOR

By: _____

Print Name/Title: _____

Date of Signature: _____

ATTACHMENTS to follow



THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL

December 14, 2021

Emily Haddad
Account Coordinator
KONTEK Systems
318 Holland Street Mall
Durham, NC 27701

Dear Emily:

As a result of Request for Proposals Number 65-RFP10082021-AMW dated October 8, 2021 (the "RFP"), The University of North Carolina at Chapel Hill (the "University") would like to award a University Term Contract (UTC) to KONTEK Systems (KONTEK) for audiovisual and multimedia equipment, integration/installation, and support services.

In accordance with the RFP, the UTC shall be in effect for a one (1) year period beginning on January 1, 2022, and the University shall have the option of extending the contract for two (2) additional one (1) year terms. The UTC and any resulting purchase(s) shall be governed by the terms and conditions of the RFP.

Please reference the following Contract Number on any project quote, proposal, and/or Statement of Work that KONTEK submits to the University for related equipment and/or services, and ensure that all pricing is in accordance with the proposal KONTEK submitted in response to the RFP.

Contract Number: KONTEK/Y22AMW/111/RFP

We look forward to a successful partnership. Please let me know if you have any questions!

Sincerely,

Alicia Waymack

Alicia Waymack
IT Category Manager
919.962.3769
awaymack@unc.edu



Proposal complies with Contract
#KONTEK/Y22AMW/111/RFP

1 Year ProTEK Support Agreement

Quote # 001790 v1
9/27/2022

Prepared for:

**Durham County Information Services &
Technology**

Bert White
bwhite@dconc.gov

Prepared by:

KONTEK Systems

Tammy Bradley
tbradley@kontek.com

Proposal

ProTEK Support Agreement ("Proposal")

KONTEK Systems, Inc. is pleased to present you with the following Audio/Visual ProTEK Support Agreement Proposal for your consideration.

At KONTEK, we are experts in applying the industry's most advanced audio/visual (A/V) technologies. We translate this expertise into value for our clients through highly-customized systems, integration solutions, equipment sales and services. We are proud to deliver comprehensive A/V technology, presentation and collaboration solutions to the Triangle area, and beyond.

KONTEK distinguishes itself from other A/V companies with our philosophy to lead with excellence. We accomplish this by holding our staff accountable to the highest quality solutions, delivery standards, and service that we have emphasized over the last 30 years.

Thank you for the opportunity to provide you with this Proposal for audio/visual support services. We look forward to working with you!

Scope of Work

1. Services Overview

KONTEK's ProTEK Support Agreement provides complete coverage for both technician labor and equipment repair. ProTEK Support also includes priority response for service requests; programming support for any control system and user interface maintenance; temporary equipment when required and if available; two preventive maintenance services; and unlimited client and user group training.

A full description of all included and excluded services can be found in the ProTEK Support Agreement Terms & Conditions (Appendix A).

a. Covered Locations & Systems ("Covered System")

The ProTEK Support Agreement applies to all audio-visual equipment, located in specific locations and rooms listed below, that are permanently installed, defined and identified below. Coverage of additional A/V equipment or systems at these or other locations will be billed at the prevailing hourly support rates under standard KONTEK billing guidelines.

#	Location	Building	Installed System/Room
1	Durham Co. Information Services & Technology	Health & Human Services	Lobby 3
2	Durham Co. Information Services & Technology	Health & Human Services	Lobby 4
3	Durham Co. Information Services & Technology	Health & Human Services	Lobby 5
4	Durham Co. Information Services	Health & Human Services	Lobby 6

Proposal

	&Technology		
5	Durham Co. Information Services &Technology	Health & Human Services	Lobby 7
6	Durham Co. Information Services &Technology	Health & Human Services	Lobby 10
7	Durham Co. Information Services &Technology	Health & Human Services	Lobby 11
8	Durham Co. Information Services &Technology	Health & Human Services	Lobby 21
9	Durham Co. Information Services &Technology	Health & Human Services	Lobby 27
10	Durham Co. Information Services &Technology	Health & Human Services	Fitness Center
11	Durham Co. Information Services &Technology	Health & Human Services	Room 1110
12	Durham Co. Information Services &Technology	Health & Human Services	Room 1219
13	Durham Co. Information Services &Technology	Health & Human Services	Room 1285
14	Durham Co. Information Services &Technology	Health & Human Services	Room 1288
15	Durham Co. Information Services &Technology	Health & Human Services	Room 1426
16	Durham Co. Information Services &Technology	Health & Human Services	Room 1428
17	Durham Co. Information Services &Technology	Health & Human Services	Room 2020 AVC
18	Durham Co. Information Services &Technology	Health & Human Services	Room 2208
19	Durham Co. Information Services &Technology	Health & Human Services	Room 2218
20	Durham Co. Information Services &Technology	Health & Human Services	Room 2263
21	Durham Co. Information Services &Technology	Health & Human Services	Room 2264
22	Durham Co. Information Services &Technology	Health & Human Services	Room 2313
23	Durham Co. Information Services &Technology	Health & Human Services	Room 2330
24	Durham Co. Information Services &Technology	Health & Human Services	Room 2421

Proposal

25	Durham Co. Information Services &Technology	Health & Human Services	Room 2423
26	Durham Co. Information Services &Technology	Health & Human Services	Room 2422
27	Durham Co. Information Services &Technology	Health & Human Services	Room 2424
28	Durham Co. Information Services &Technology	Health & Human Services	Room 3132
29	Durham Co. Information Services &Technology	Health & Human Services	Room 3235
30	Durham Co. Information Services &Technology	Health & Human Services	Room 3241
31	Durham Co. Information Services &Technology	Health & Human Services	Room 3260
32	Durham Co. Information Services &Technology	Health & Human Services	3rd Floor Visit Room
33	Durham Co. Information Services &Technology	Health & Human Services	Room 3234
34	Durham Co. Information Services &Technology	Admin-1 Building	1st Floor Lobby
35	Durham Co. Information Services &Technology	Admin-1 Building	103 Training Room
36	Durham Co. Information Services &Technology	Admin-1 Building	148 Conf Room
37	Durham Co. Information Services &Technology	Admin-1 Building	247 Conf Room
38	Durham Co. Information Services &Technology	Admin-1 Building	248 Conf Room/Comm Chambers
39	Durham Co. Information Services &Technology	Admin-1 Building	Innovations Lab 222
40	Durham Co. Information Services &Technology	Admin-1 Building	Innovations Lab 224
41	Durham Co. Information Services &Technology	Admin-1 Building	Innovations Lab 230
42	Durham Co. Information Services &Technology	Admin-1 Building	129 Conf Room
43	Durham Co. Information Services &Technology	Admin-1 Building	2nd Floor Lobby
44	Durham Co. Information Services &Technology	Admin-1 Building	Room 3260
45	Durham Co. Information Services	Admin-1 Building	Room M403

Proposal

	&Technology		
46	Durham Co. Information Services &Technology	Admin-1 Building	Room 409
47	Durham Co. Information Services &Technology	Admin-1 Building	Room 412
48	Durham Co. Information Services &Technology	Admin-1 Building	Room M414
49	Durham Co. Information Services &Technology	Admin-1 Building	Room M415
50	Durham Co. Information Services &Technology	Admin-1 Building	Room 426
51	Durham Co. Information Services &Technology	Admin-1 Building	5th Floor Lobby
52	Durham Co. Information Services &Technology	Admin-1 Building	AG-Bld-205 CR
53	Durham Co. Information Services &Technology	Admin-1 Building	129A (2) Conf Room
54	Durham Co. Information Services &Technology	Admin-1 Building	AG-Bld-205
55	Durham Co. Information Services &Technology	Admin-1 Building	AG-Bld-Office 216
56	Durham Co. Information Services &Technology	Admin-1 Building	AG-Bld-1st Floor Lobby
57	Durham Co. Information Services &Technology	Admin-1 Building	Ag-Bld-Conf Room 132
58	Durham Co. Information Services &Technology	Board of Election Warehouse	
59	Durham Co. Information Services &Technology	Board of Election	
60	Durham Co. Information Services &Technology	Courthouse	1st Floor Lobby
61	Durham Co. Information Services &Technology	Courthouse	Clerks Courtroom 2500
62	Durham Co. Information Services &Technology	Courthouse	3rd Floor Jury
63	Durham Co. Information Services &Technology	Courthouse	Courtroom 3A
64	Durham Co. Information Services &Technology	Courthouse	3rd Floor Traffic Courtroom
65	Durham Co. Information Services &Technology	Courthouse	Room 4C

Proposal

66	Durham Co. Information Services &Technology	Courthouse	Courtroom 4D
67	Durham Co. Information Services &Technology	Courthouse	Courtroom 5A
68	Durham Co. Information Services &Technology	Courthouse	Courtroom 5B
69	Durham Co. Information Services &Technology	Courthouse	Courtroom 5C
70	Durham Co. Information Services &Technology	Courthouse	Courtroom 5D
71	Durham Co. Information Services &Technology	Courthouse	Courtroom 7A
72	Durham Co. Information Services &Technology	Courthouse	Courtroom 7B
73	Durham Co. Information Services &Technology	Courthouse	Courtroom 7C
74	Durham Co. Information Services &Technology	Courthouse	Courtroom 7D
75	Durham Co. Information Services &Technology	Courthouse	Courtroom 8A
76	Durham Co. Information Services &Technology	Courthouse	Conf Room 9000
77	Durham Co. Information Services &Technology	Courthouse	Conf Room 9200
78	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC-Room 100
79	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC-Room 104
80	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC-Room 105
81	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC- 1st Floor Multipurpose Room
82	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC-3rd Floor Conf Room A
83	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC-3rd Floor Conf Room B
84	Durham Co. Information Services &Technology	Criminal Justice Resource Center	DCCJC- 3rd Floor Conf Room C
85	Durham Co. Information Services &Technology	EMS	EMS-101
86	Durham Co. Information Services	EMS	EMS-104

Proposal

	&Technology		
87	Durham Co. Information Services &Technology	EMS	EMS-105
88	Durham Co. Information Services &Technology	EMS	EMS-110
89	Durham Co. Information Services &Technology	General Services Bld	Room 107
90	Durham Co. Information Services &Technology	General Services Bld	Room 1110
91	Durham Co. Information Services &Technology	General Services Bld	Room 203
92	Durham Co. Information Services &Technology	General Services Bld	Room 205
93	Durham Co. Information Services &Technology	General Services Bld	Room 209
94	Durham Co. Information Services &Technology	General Services Bld	Room 213
95	Durham Co. Information Services &Technology	General Services Warehouse	Room 102
96	Durham Co. Information Services &Technology	General Services Warehouse	Room 106
97	Durham Co. Information Services &Technology	General Services Warehouse	Room 107
98	Durham Co. Information Services &Technology	General Services Warehouse	Room 111
99	Durham Co. Information Services &Technology	Southwest Regional Library	
100	Durham Co. Information Services &Technology	Main Library	Room 4304
101	Durham Co. Information Services &Technology	Main Library	Room 4307
102	Durham Co. Information Services &Technology	Main Library	Room 4309
103	Durham Co. Information Services &Technology	Main Library	Room 4342
104	Durham Co. Information Services &Technology	Main Library	Room 4343
105	Durham Co. Information Services &Technology	Main Library	Room 4336 - Director Conf Room
106	Durham Co. Information Services &Technology	Main Library	Room 4337

Proposal

107	Durham Co. Information Services &Technology	Main Library	Room 4347
108	Durham Co. Information Services &Technology	Main Library	Room 3222
109	Durham Co. Information Services &Technology	Main Library	Room 3205
110	Durham Co. Information Services &Technology	Main Library	Room 3200
111	Durham Co. Information Services &Technology	Main Library	Room 2119
112	Durham Co. Information Services &Technology	Main Library	First Floor Open Area Video Wall
113	Durham Co. Information Services &Technology	Main Library	Room 1049 Maker Space
114	Durham Co. Information Services &Technology	Main Library	Booth 1
115	Durham Co. Information Services &Technology	Main Library	Booth 2
116	Durham Co. Information Services &Technology	North Regional Library	
117	Durham Co. Information Services &Technology	South Regional Library	

b. Exclusions:

Items listed in this section are currently installed in the A/V systems outlined in the Covered Locations & Systems section but can no longer be serviced to manufacturer's specifications for reasons listed. This equipment will not be certified for coverage for repair or replacement under the terms of this Agreement as specified above. The items not covered are:

Manufacturer fees for repair or direct replacement of equipment documented as non-functional during audio.

Costs associated with the replacement of any panels within the video wall.

Any discrepancies between Kontek's findings and the audit information will be discussed on an individual basis.

2. Term of the Agreement

The ProTEK Support Agreement will be effective January 1, 2023 through December 31, 2023.

Proposal

Service Agreement Pricing

Description	Ext. Recurring
ProTEK Agreement	\$96,996.00
Your monthly price will be \$8,083.00.	
Annual Subtotal:	
\$96,996.00	

1 Year ProTEK Support Agreement

Prepared by:

KONTEK Systems

Tammy Bradley
tbradley@kontek.com

Prepared for:

Durham County Information Services & Technology

200 East Main Street, 5th Floor
Durham, NC 27701
Bert White
(984) 260-5954
bwhite@dconc.gov

Quote Information:

Quote #: 001790

Version: 1

Delivery Date: 09/27/2022

Expiration Date: 12/26/2022

Annual Expenses Summary

Description	Amount
Service Agreement Pricing	\$96,996.00
Annual Subtotal:	
	\$96,996.00
Estimated Tax:	
	\$7,274.70
Annual Total:	
	\$104,270.70

To accept this proposal, please sign and return the proposal to your Account Manager. Your acceptance of this Proposal includes your acceptance of Appendix A – ProTEK Support Agreement Terms & Conditions.

KONTEK Systems

Durham County Information Services & Technology

Signature: _____

Name: Tammy Bradley

Title: _____

Date: 09/27/2022

Signature: _____

Name: Bert White

Date: _____

Appendix A

ProTEK Support Agreement Terms & Conditions

This ProTEK Support Agreement ("Agreement") is entered into as of January 1, 2023 (the "Effective Date"), for the term defined in the Proposal, by and between Durham County Information Services & Technology ("Client"), and KONTEK Systems, Inc. a North Carolina corporation with offices at 318 Holland St, Durham, NC 27701 ("KONTEK").

This Agreement applies to all audio-visual equipment in the A/V System being covered, unless specifically excluded in the Proposal, in the specific locations and rooms listed in the Proposal. Coverage of additional A/V equipment or systems at these or other locations will be billed at the prevailing hourly support rates under standard KONTEK billing guidelines.

KONTEK agrees to provide A/V maintenance services, as outlined, for the benefit of the Client. This Agreement describes the scope of the services to be provided by KONTEK Systems to the Client under the ProTEK Support Agreement. Changes within the scope of the services shall be made only in writing executed by both parties or by e-mail acknowledged by both parties. This Agreement is governed by the Terms and Conditions contained herein.

1. Included Services

KONTEK agrees to provide A/V maintenance and services for the benefit of Client which shall consist of:

- a) Technician labor and equipment repair: *Clients are completely covered for any costs due to equipment failure, required equipment maintenance, and system service and support. (*See exclusions in Scope of Work 1B)
- b) Control System support for any control system and user interface maintenance, including correction of known issues (bugs), maintenance of graphical images and labeling, and any required firmware or manufacturer- specified software updates required to maintain current function of the control code for all Covered A/V Systems
- c) Temporary equipment to keep the Covered System functional while equipment is being repaired, if available
- d) Two preventive maintenance visits per year
- e) Unlimited client and/or user group training per year
- f) Annual customer service meeting

2. Excluded Services

KONTEK will not provide the following:

- a) Expendables including, but not limited to: Projection lamps, projector filters, filter cartridges, batteries, microphone windscreens, etc.
- b) Manufacturer End-of-Life equipment as noted in the "Excluded Equipment" section of the Proposal.
- c) All third-party of audio- and videoconferencing equipment (Polycom, Cisco), and all support of third-party media recorders and associated servers (Sonic Foundry/Mediasite, Fortigate, etc.), under third-party manufacturer coverage
- d) Equipment damage resulting from client's disregard of maintenance alerts (i.e. projector filter cleaning messages) or any damage resulting from abnormal operating conditions, above expected normal wear and tear, and/or acts of God

Appendix A

- e) Repeated “false alarm” calls where problem is not with system but caused by improper use or customer error
- f) Software or configurations not installed/maintained/programmed by KONTEK, except where certified by KONTEK by specific agreement, and un-compiled source code is available for KONTEK use.
- g) Expedited or overnight freight of customer equipment to/from repair facilities
- h) Damage to custom furniture or room furnishings, including, but not limited to tables, chairs, stools, lecterns, credenzas, secretaries, risers, teaching consoles, editing consoles, equipment racks, or stock or custom A/V control room consoles.
- i) Feature revisions or changes to any control system
- j) All labor associated with excluded items above

3. Service Level and Response Times

KONTEK guarantees a Priority Response in two business hours for requests of service made by phone or email. Onsite response by KONTEK service technicians is guaranteed within two business days for critical failures (excludes holidays). Reported non-critical issues will be scheduled at the earliest time slot available.

4. Designated Contacts & Hours of Operation

The designated authorized Client contact may submit requests for service during normal business hours either by calling KONTEK or by email. KONTEK will also make every effort to provide service at other times as requested by the client when possible at no additional charge, but availability of service staff during off hours is not guaranteed. This Agreement entitles Client to priority response scheduling for all requests for support and services sent to the KONTEK Support Team.

KONTEK Support: Email: Support@KONTEK.com

Normal Business Hours (M-F: 8:00am-4:30pm): 919-683-2321

After Hours (M-F: 4:30pm to 8:00am, Weekends, and Holidays): 919-683-2321

KONTEK is closed on the following holidays: New Year’s Day, Martin Luther King Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, the Day After Thanksgiving, and Christmas Day.

KONTEK Point of Contact and Support Desk Manager: Tammy Bradley

5. Terms & Conditions

a) Temporary Equipment

Due to the rapidly changing nature of the AV industry and the wide range of equipment installed in your systems, we cannot guarantee availability of equivalent equipment for every component in your system. In instances where temporary equipment is not available, KONTEK will cover all costs of expedited freight to ensure prompt return of failed equipment.

b) Software/Control Code – Support and Certification

Control system programming placed under this agreement that is not originally programmed and developed by KONTEK's Software Team must be certified by KONTEK as being covered by this agreement.

Appendix A

This code certification includes review of current function with the client by installed system; verification of current version and prior version(s) of said code; and provision of raw un-compiled source code and configurations, if required, to KONTEK. KONTEK makes no provision to modify or program proprietary third-party programmed control modules that are unavailable to KONTEK for assessment and editing.

c) Payment Terms and Records

- (i) Client agrees to pay KONTEK for services in accordance with the terms of this Agreement: (a) KONTEK will invoice Client within the first ten (10) days of every month for services provided in that month, unless otherwise specified in the proposal, and (b) Client will pay valid and undisputed invoices within thirty (30) days after receipt, subject to receipt of corresponding payment from Client.
- (ii) If payment is not issued by the Client, any outstanding service invoices will be released to the Client at KONTEK's prevailing time and material rates thirty (30) days after the due date.
- (iii) KONTEK will keep a complete and accurate record of all hours worked and progress made during each Term of the Agreement.

d) Term and Termination

The term of this Agreement, as defined in the Proposal, is the initial Term. After the initial Term, Client may terminate this Agreement at any time upon at least sixty (60) days prior written notice to KONTEK. Client shall have no obligations to pay compensation for any services rendered after that date of termination.

e) Confidential Information

- (i) KONTEK acknowledges that, in and as a result of this Agreement, KONTEK will receive access to, make use of, and acquire, confidential information of a special and unique nature and value including but not limited to information regarding Client's business; as well as other confidential and private information that would reasonably be recognized as information not intended for disclosure to third parties (collectively, "Confidential Information").
- (ii) KONTEK will not make copies of or use any Confidential Information or materials for any non-Engagement related purposes. KONTEK shall not, directly or indirectly, transfer or disclose, for any purpose whatsoever, any Confidential Information.
- (iii) Upon termination of the Agreement, or upon request of Client, KONTEK will deliver to Client all originals and copies of any Confidential Information and any documents or notes incorporating Confidential Information, in written or any other form.
- (iv) KONTEK and Client agree not to disclose the terms of this Agreement to any third party except to its attorneys and accountants as reasonably necessary to obtain legal, accounting and tax advice.

f) Force Majeure

KONTEK shall not be responsible for failure of performance resulting from acts beyond its reasonable control. Such acts shall include, but not be limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of KONTEK or Client), failure or suspension of third party service providers' facilities, including, but not limited to suspension or failure of a utility service or transport or

Appendix A

telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

g) Indemnification

(i) Subject to the other provisions of this Section 5, KONTEK agrees to indemnify and save harmless Client from and against any loss, expense or claim asserted by third parties for damage to third party tangible property, or for bodily injury, or both, arising out of the performance of this Agreement, to the extent such damage or injury is attributable to the negligence of KONTEK; provided that Client gives KONTEK prompt notice of any such claim and all necessary information and assistance so that KONTEK, at its option, may defend or settle such claim and Client does not take any adverse position in connection with such claim. In the event that any such damage or injury is caused by the joint or concurrent negligence of KONTEK and Client, the loss, expense or claim shall be borne by KONTEK and Client in proportion to their negligence.

(ii) KONTEK agrees to indemnify and save harmless Client from and against any loss, expense or claim asserted by third parties alleging that the A/V system, its documentation or software infringes a third party's intellectual property rights ("Infringement Claim"). This indemnification obligation shall not apply to any claim based on manufacture, design, operation, maintenance or service provided according to Client's specifications.

(iii) Client's remedies, under this indemnification provision are limited to any one of the following, at KONTEK's election: (a) KONTEK shall procure for Client the right to use the method or process, (b) KONTEK shall modify the method or process so that it no longer infringes, (c) KONTEK shall replace the method or process with non-infringing alternatives, or (d) KONTEK shall refund to the Customer the purchase price paid for the infringing service.

(iv) Client shall indemnify, defend and hold harmless KONTEK and its suppliers and their respective officers, directors, and employees from and against any third party damages, claims, actions, proceedings, costs, and expenses arising from third party claims relating to any data, content, services, software, hardware, or communication sent, received, provided or stored by Client and its suppliers and their respective officers, directors, and employees via the A/V System.

h) Limit of Liability

THE AGGREGATE LIMITATION OF LIABILITY FOR DAMAGES ARISING FROM A MATERIAL BREACH OF THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID OR PAYABLE BY CLIENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF ANY CLAIM, DAMAGE OR CAUSE OF ACTION.

i) General Provisions

(i) This Agreement, with the documents incorporated herein, is the exclusive Agreement between the parties with respect to the subject matter of this Agreement and as of its date supersedes all prior agreements, negotiations, representations, and proposals, written or oral with respect to the same. Its terms cannot be modified, supplemented, or rescinded except by an agreement in writing signed by both parties. Neither party shall be bound by or liable to the other party for any representation, promise, or

Appendix A

inducement made by any agent or person in the other's employ which is not embodied in this Agreement. In the event of any discrepancy or inconsistency between this Agreement and any other form, used by either party in connection herewith, the terms of this Agreement shall govern.

(ii) Any notice given pursuant to this Agreement shall be in writing and shall be sent by courier or first-class mail, postage prepaid, to the addresses noted in the Proposal and shall be duly made when delivered to that address.

(iii) This Agreement shall be governed by and construed according to the laws of the State of North Carolina (without regard to conflict of laws provisions). The parties agree to sole jurisdiction and venue for any dispute relating to this Agreement in Durham County, North Carolina.

(iv) In the event that any part or parts of this Agreement are held to be unenforceable by a court with competent jurisdiction, then the remainder of this Agreement shall continue to be in effect without giving accord to the part, or parts, of the Agreement which are deemed to be unenforceable.

(v) The term "including" as used in this Agreement shall mean "including, but not limited to" and shall not be interpreted to specify an exhaustive list of examples

(vi) A party's failure at any time to enforce any of the provisions of this Agreement or any right with respect thereto, will not be construed to be a waiver of such provision or rights, nor to affect the validity of this Agreement.

(vii) KONTEK shall comply (at its own expense) with all local, state and federal requirements applicable to the services performed by KONTEK, including all required licenses and permits.