



Contract Preparation and Submission Checklist

This checklist is a guide to assist you in preparing and submitting your contract. All items listed must be completed and/or returned with the contract.

Vendor Name: _____
Data Universal Numbering System (DUNS) Number: _____
To make updates to your vendor profile, please visit MeckProcure.com

Requirements for Submission (check all included)

Documents Needed to Process a Contract

<input type="checkbox"/>	<u>Tax Exempt Letter (If Applicable)</u>	Certificate of Insurance Must be current , list Mecklenburg County as the certificate holder , and include the following coverages <input type="checkbox"/> Automobile Liability <input type="checkbox"/> Commercial General Liability * Mecklenburg County must be listed as additional insured <input type="checkbox"/> Worker's Compensation (If less than three employees a statement on your company letterhead is required) <input type="checkbox"/> Professional Errors and Omissions <input type="checkbox"/> Sexual Abuse and Molestation <input type="checkbox"/> Network Security and Privacy Liability <input type="checkbox"/> Fidelity Bond
<input type="checkbox"/>	<u>Regulatory Licensure (If Applicable)</u>	

Documents Requiring Submission on Agency Letterhead

<input type="checkbox"/>	Exhibit B – Conflict of Interest Policy	Must be on your letterhead/stationary Must include the original signature matching the person and date on the Signature Page.
<input type="checkbox"/>	Exhibit C – Overdue Tax Letter	

Documents Requiring Signature

<input type="checkbox"/>	Exhibit D – False Claims Act – Contractors and Suppliers Education Notice	<input type="checkbox"/>	Exhibit E – State Certifications
<input type="checkbox"/>	Signature Page	<input type="checkbox"/>	

Methods of Submission

Email		Hand Deliver/Mail
Submit a PDF copy to: Procurement Analyst: Brandy Ross Brandy.Ross@MeckNC.Gov	OR	Mecklenburg County Government Procurement Division Financial Services Department 700 East 4 th Street, 4 th Floor Charlotte, NC 28202



State of North Carolina
Mecklenburg County

County Funds
State Funds
Federal Funds CFDA # Number(s)
Other Funds Type of Other Funding.

This Contract, entered into as of the _____ of _____, _____ by and between the COUNTY OF MECKLENBURG through its Health Department, hereinafter referred to as "County", and _____, hereinafter referred to as "Vendor".

The section headings contained in this contract are for reference purposes only and shall not affect the meaning or interpretation of this contract.

The Department and Provider agree as follows:

1. ENGAGEMENT, TERM AND CONTRACT DOCUMENT

1.1 Purpose and Contract Amount

The Department is engaging the Provider for the purpose of _____, as further described in Section 2, payable as provided in Section 3, in an amount not to exceed \$ _____.

1.2 Effective and Ending Dates

This Contract shall be effective _____ or the last party signature date, whichever is later. The service performance period under this Contract shall commence on _____ or the effective date of this Contract, whichever is later, and shall end at midnight _____.

1.3 Official Payee and Party Representatives

1.3.1 The name, address, telephone number and e-mail address of the Vendors' Contract Administrator:

Name:

Address:

City: State: Zip Code:

Phone: Ext: E-mail:

1.3.3 The name, address, telephone number and e-mail of the Project Manager for the Department for this Contract:

Name:

Address:

City: State: Zip Code:

Phone: E-mail:

1.3.2 The name, address, telephone number and e-mail of the Vendor's representative responsible for administration of the program under this Contract (and primary point of contact):

Name:

Address:

City: State: Zip Code:

Phone: Ext: E-mail:

1.3.4 The name, address, telephone number and e-mail address of the Procurement Analyst for this Contract:

Name:

Address:

City: State: Zip Code:

Phone: E-mail:

2. INCORPORATION

The following Exhibits are attached to this Contract and incorporated herein and made a part of this Contract by reference:

Exhibit A: Scope of Work

Exhibit B: Conflict of Interest Policy

Exhibit C: Overdue Tax Letter

Exhibit D: False Claims Acts

Each reference to the Contract shall be deemed to include all Exhibits. Any conflict between the language in an Exhibit to this Contract and the main body of this Contract shall be resolved in favor of the main body of this Contract; provided, however, if the parties have executed a Business Associate Agreement, either as an Exhibit to this Contract or as a separate agreement, any conflict between the Business Associate Agreement and this Agreement shall be resolved in favor of the Business Associate Agreement.

3. METHOD AND CONDITION OF PAYMENTS

3.1 Rates are determined as follows:

3.1.1 Travel expenses, which may include air transportation, car rental, taxi, lodging and meals. The rates shall be a per diem rate as identified in the [U.S General Services Administration Per Diem Rates for North Carolina](#):

Total Cost \$

3.2 Submit monthly detailed invoices via electronic format to the email address below:
HSFInvoiceProcessing@mecklenburgcountync.gov

3.3 Electronic invoices must be submitted in accordance with the privacy and security requirements set forth in SECTION 5 – SAFEGUARDING CUSTOMER AND COUNTY INFORMATION.

3.4 Payment will be made via electronic funds transfer.

3.5 Prepare and submit with invoice each month a financial report documenting actual monthly expenses per the line item budget. The total amount paid under the terms of this Contract shall not exceed the actual expenditures incurred by the Vendor.

3.6 Line items in the budget, not to exceed the maximum amount payable under the terms of this contract, may be adjusted by mutual written consent between the Vendor and COUNTY. In such case, the Vendor shall provide an updated budget to be placed on file with all parties.

3.7 The first invoice will be due no later than _____ for services rendered from _____ through _____ of the current year and will be paid providing the contract has been fully executed.

3.8 Upon receipt, the invoice will be validated and verified for accuracy and submitted to finance for payment. Incorrect invoices will be clarified with Vendor with corrections/changes made on a revised invoice.

3.9 The date of the revised invoice will be considered as the original date of the invoice.

3.10 COUNTY will authorize approved amounts to be paid to Vendor.

3.11 Failure to send requests to the appropriate person may result in payment being delayed beyond thirty (30) calendar days.

3.12 For services rendered from June 1st through June 30th of the previous year, the invoice will be due no later than July 5th of the current year. Late billings must be submitted for payment no later than sixty (60) calendar days from the date of service. If billing is over (60) calendar days, the County may deny payment.

4. AUDIT REQUIREMENTS – Not Applicable

5. LEGAL RESPONSIBILITIES OF BOTH PARTIES

Compliance with Federal and State Laws and Regulations and Authority to Contract

5.1 Vendor Responsibilities:

5.1.1 Have all the requisite power and authority to execute, deliver and perform its obligations under this Contract and to provide the service(s) stipulated in this Contract as described in the Vendor Responsibilities (Section I), in accordance with applicable standards for the service(s);

5.1.2 Furnish financial and program data as required to document that applicable standards have been met;

5.1.3 Certification Regarding Nondiscrimination

5.1.3.1 To comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the

Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Contract.

- 5.1.3.2 Vendor agrees that it will inform the County of any alleged violation(s) of employment practices involving any employees who work on the Contract which are asserted in any claims filed with the Equal Employment Opportunity Commission, the US or NC Departments of Labor or any other federal or state compliance agency.
- 5.1.4 Comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. Vendor further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to: worker's compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA) of 1990; the Family and Medical Leave Act (FMLA), and all Occupational Safety and Health Administration (OSHA) regulations applicable to the Services.
- 5.1.5 Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
- 5.1.6 Comply with Section 6032 of the Deficit Reduction Act of 2005 (42 USC 1396(a)(68)) as a condition of enrollment in the North Carolina Medicaid Program by ensuring that the Vendor and any agent of the Vendor are aware of the Federal False Claims Act, 31 USC 3729 et seq., administrative remedies for false claims and Statements established under 31 USC 3801 et seq., and any North Carolina State laws pertaining to civil or criminal penalties for false claims and Statements and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse, if applicable.
- 5.1.7 Accept fiscal responsibility for deviations from the terms of this Contract as a result of acts of Vendor or any of its officers, employees, agents or representatives.
- 5.1.8 Certify that no approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by Vendor in order for Vendor to enter into and perform obligations under this Contract.
- 5.1.9 Not violate any contract with any third party by entering into or performing this Contract.
- 5.1.10 Assure that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funds that the Vendor otherwise expends for Contract Services and related programs. Funds received under this Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Vendor's total expenditure of other public funds for such services.
- 5.1.11 Make disbursements in accordance with the following requirements:
 - 5.1.11.1 Implement adequate internal controls over disbursements;
 - 5.1.11.2 Pre-audit all invoices/vouchers presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
 - 5.1.11.3 Assure adequate control of signature stamps/plates;
 - 5.1.11.4 Assure adequate control of negotiable instruments; and
 - 5.1.11.5 Implement procedures to insure that account balance is solvent and reconcile the account monthly.
- 5.1.12 Certify that it has identified to the County all jobs related to the Contract that have been outsourced to other countries, if any. The Vendor further agrees that it will not outsource any such jobs during the term of this Contract without obtaining prior written approval from the County.
- 5.1.13 Agree to make itself aware of and comply with, and cause it subcontractors to comply with all Federal, State, and local laws, regulations and ordinances, to the extent any apply, relating to the performance of this Contract and to the products and Services delivered hereunder, including without limitation, **E-Verify (Article 2 of Chapter 64 of the North Carolina General Statutes)**, Workers' Compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and all applicable regulations of the Occupational Safety and Health Administration (OSHA). The Vendor further agrees to obtain all verifications, permits and licenses applicable to the performance of this Contract. If any violation of this section has occurred or does occur, the Vendor will indemnify, defend and hold harmless the County from all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, interest charges and other liabilities (including settlement amounts) incurred on account of such violation.

- 5.1.14 Represent and warrant that neither it nor any of its employees or subcontractors relevant to this Contract are excluded from any State or Federal health care programs. In the event the Vendor is excluded from a State or Federal health care program, Vendor shall promptly notify the Department and this Contract shall immediately terminate. In the event an employee or subcontractor of the Vendor is excluded from a State or Federal health care program, Vendor shall immediately notify the Department and immediately cease using that individual or subcontractor for this Contract.
- 5.1.15 Make available all services under this Contract to all persons without discrimination on the grounds of race, color, creed, national origin, religion, age, sex, disability or any other status protected by law.
- 5.1.16 Agrees to notify the County within five (5) days upon the receipt of notification from the North Carolina Secretary of State that the business charter, articles of incorporation, articles of organization, or certificate of authority of the corporation or limited liability company is under suspension pursuant to N.C.G.S. §105-230 for failing to file any report or return or to pay any tax or fee required by the North Carolina Department of Revenue or to sign an agreement for repayment within ninety (90) days after it is due.
- 5.1.17 Comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104).
- 5.1.18 Iran Divestment Act Prohibition - Iran Divestment Act Prohibition – Vendor represents that as of the date of this Contract or purchase order, Vendor is not currently listed on the Final Divestment List created and maintained by the North Carolina State Treasurer pursuant to G.S.143-6A-4. Further, pursuant to G.S. 143C-6A-5(b), Vendor further agrees to notify the County Procurement Department if at any time during the term of this agreement, it is added to the "List." The Divestment List may be found on the State Treasurer's website at www.nctreasurer.com/iran.
- 5.1.19 Comply with the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Digital Accessibility Compliance

6. SAFEGUARDING CUSTOMER AND COUNTY INFORMATION

- 6.1 Both parties hereto agree to comply with any and all applicable laws and regulations concerning the confidentiality of customer records, files or communications in addition to the terms of this Contract.
- 6.2 Both parties agree to secure privacy, confidentiality and integrity of customer, employee, and administrative data on automated systems and to install antivirus protection and a firewall as well as any other industry standard security measures.
- 6.3 Electronic exchange of confidential information, including any email which will include invoices, customer billing information, employee or administrative data, or any information regarding the delivery of services to customers/clients/patients, must be sent and received via encrypted methods. Vendor is responsible for determining how to send encrypted emails to the County.
- 6.4 Vendor agrees to keep confidential any information about a customer or the County pursuant to the Confidentiality and Non-Disclosure Agreement which is incorporated herein as part of this Contract as follows:

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

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

The County and Vendor 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:

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 is obtained from the County or any of its suppliers, contractors or licensors which falls within any of the following general categories:

(1) Trade Secrets. For purposes of this Contract, trade secrets consist of information of the County or Vendor 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.

(2) Highly Restricted Information. Vendor 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) Vendor will also comply with any more restrictive instructions or written policies that may be provided by COUNTY from time to time to protect the confidentiality of Highly Restricted Information, as defined below:

- i. Information of COUNTY or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."
- ii. Information relating to criminal investigations conducted by COUNTY, and records of criminal intelligence information compiled by COUNTY.
- iii. Information contained in COUNTY's personnel files, as defined by N.C. Gen. Stat. 153A-198. This consists of all information gathered by COUNTY about employees, except for that information which is a matter of public record under North Carolina law.
- iv. Citizen or employee social security numbers collected by COUNTY.
- v. Computer security information of 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.
- vi. Local tax records of COUNTY that contain information about a taxpayer's income or receipts.
- vii. Any attorney/client privileged information disclosed by either party.
- viii. 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.
- ix. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.
- x. Protected health information (PHI), as defined in the Health Insurance Portability and Accountability Act (HIPAA), and any other health 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.

2. RESTRICTIONS. Vendor shall keep the Confidential Information in the strictest confidence, in the manner set forth below:
 - a. Vendor shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by 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 Vendor of the County or Vendor having a need to know such Confidential Information for purpose of performing work contemplated by this Contract between the County and Vendor, and who has executed a confidentiality agreement incorporating substantially the form of this Confidentiality and Non-Disclosure Agreement. Vendor 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. Vendor shall 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. Vendor shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
 - e. Vendor shall 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, Vendor 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 COUNTY or destroyed upon satisfaction of the purpose of the disclosure of such information.
 - h. Vendor shall restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.
 - i. Vendor shall take reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract.

3. EXCEPTIONS. COUNTY agrees that Vendor shall have no obligation with respect to any Confidential Information that Vendor can establish:
 - a. was already known to Vendor prior to being disclosed by COUNTY;
 - b. was or becomes publicly known through no wrongful act of Vendor;
 - c. was rightfully obtained by Vendor from a third party without similar restriction and without breach hereof;
 - d. was used or disclosed by Vendor with the prior written authorization of COUNTY;
 - e. was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Vendor shall first give to the other party notice of such requirement or request;
 - f. was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that Vendor shall take reasonable steps to obtain an agreement or protective order providing that this Contract will be applicable to all disclosures under the court order or subpoena.

4. REMEDIES. Vendor 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 Vendor breaches its obligations hereunder, COUNTY shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

6.5 Data Security

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

The Vendor shall report a suspected or confirmed security breach to the Procurement Analyst listed in Section 1.3.4 and the Department Project Manager listed in Section 1.3.3 within twenty-four (24) hours after the breach is first discovered, provided that the Vendor 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 Vendor to give written notice of a security breach to affected persons, the Vendor shall bear the cost of the notice.

7. INDEMNIFICATION

To the fullest extent permitted by law, the Vendor shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "charges" (as defined below) paid or incurred by any of them as a result of any claims demands, lawsuits, actions or proceedings either: (i) alleging violation, misappropriation, or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Services or any products or deliverables provided to the County pursuant to this Contract ("infringement claims"); (ii) seeking payment for labor or materials purchased or supplied by the Vendor or its subcontractors in connection with this Contract; or (iii) arising from the Vendor's failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Vendor or any of its agents, employees or subcontractors relating to the performance of this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness, or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from a violation of any Federal, State or local law, regulation or ordinance by the Vendor or any of its subcontractors, including without limitation E-Verify or other immigration laws; or (v) arising from any claim that the Vendor or an employee or subcontractor of the Vendor is an employee of the County, including but not limited to claims relating to workers' compensation, failure to withhold taxes, and the like. For purposes of this section: (a) the term "Indemnitees" means the County and each of the County's officers, officials, employees, agents and independent contractors, excluding the Vendor; and (b) the term "charges" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities including settlement amounts.

8. TREATMENT OF ASSETS

Treatment of assets acquired under this Contract shall be subject to the following:

- 8.1 Ownership of property purchased by Vendor under the terms of this Contract for which reimbursement by COUNTY is based upon the actual purchase cost of the property shall immediately vest with the County upon such reimbursement.
- 8.2 COUNTY shall have no claim to property purchased by Vendor under the terms of this Contract for which reimbursement by COUNTY is based upon an approved depreciation schedule or use allowance.
- 8.3 Vendor shall provide an annual accounting to COUNTY of available property and administer in accordance with sound business practice a program for the maintenance, repair, protection and preservation of property purchased under the terms of this Contract to assure its continued availability.
- 8.4 Property purchased under the terms of this Contract shall be used only for the performance of this Contract. A fixed assets inventory must be kept current by the Vendor.

9. RECORDS AND REPORTS

Vendor agrees to maintain customer records which date and document the service delivered for the individual customer, a valid authorization for service, program records, documents and other evidence which reflect program operations.

- 9.1 Furnish information to COUNTY, as requested, to support provision of service(s) pursuant to this Contract and the full cost of the service. Service Provide agrees to submit requested changes to the contract, or approved supporting information, for prior review, as needed or required.
- 9.2 Maintain books, records, documents and other evidence and accounting procedures that reflect all direct and indirect costs expended under this Contract for a minimum of five years after final payment or until all audits continued beyond this period are completed or longer if required by funding source. The record retention period for

Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years. Upon request, Vendor shall make available such books, records and other documents necessary to certify the nature and extent of the cost of the Services to the Secretary of Health and Human Services and the Comptroller General of the United States or their duly authorized representatives. A fixed assets inventory must be kept current by the Vendor.

- 9.3 Maintain a separate accounting system, including ledgers and journals, which clearly identify income, expenditures, assets and liabilities for this contracted service. Federal, State and County auditors and any other persons authorized by Department shall have the right to examine any of these materials. In the event Vendor dissolves or otherwise goes out of existence, records produced under this Contract will be turned over to the County.

10. **SUBCONTRACTING**

Vendor shall not subcontract any of the work contemplated under this Contract without obtaining prior written approval from the County. Any approved subcontract shall be subject to all conditions of this Contract. Vendor shall be responsible for the performance of any subcontractor.

11. **MONITORING AND EVALUATION**

- 11.1 Vendor agrees to participate in program, fiscal and administrative audits, making records and staff time available to Federal, State, and County staff.
- 11.2 Vendor agrees to take the necessary steps for corrective action, as required within a corrective action plan, for any items found to be out of compliance with Federal and State laws, regulations, standards and/or terms of this Contract.
- 11.3 During the term of this Contract and for a period of four (4) years after termination or expiration of this Contract for any reason, in addition to the County, Federal and State government shall have the right to audit, through either itself or a third party, the books and records (including but not limited to the technical records) of Vendor in connection with this Contract, to ensure Vendor's compliance with all the terms and conditions of this Contract.

12. **AMENDMENT**

This Contract may be amended at any time with mutual consent of the parties hereto, but any amendment shall be in writing and signed by the parties hereto.

13. **SEVERABILITY**

In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, the remaining provision or requirement shall continue to be enforced to the extent they are not in violation of law or not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

14. **WAIVER**

No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

15. **NOTICES**

Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the Procurement Analyst the address set forth in Section 1.3.4.

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice, which is sent by telefax or electronic mail, shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

16. **SALES/USE TAX REFUNDS AND TAXES**

Vendor shall pay all applicable federal, state and local taxes chargeable against the performance of the services.

N.C. G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors that meet one of the conditions of G.S. 105-164.8(b) and yet refuse to collect use taxes on sales of tangible personal property to purchasers in North Carolina. The conditions include: (a) maintenance of a retail establishment or office; (b) presence of representatives in the State that solicit sales or transact business on behalf of the vendor; and (c) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Vendor certifies that it and all of its affiliates (if any) collect all required taxes.

If eligible, the Vendor and all subcontractors shall (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

17. **REDUCTION OR NON-APPROPRIATION OF FUNDS**

The parties to this Contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation and availability of funds for this purpose to the County. In the event that Federal, State, Local or Grant funding is no longer available or has been reduced, the County shall notify the Vendor and shall not be obligated to continue this Contract or any part thereof.

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Contract for a given fiscal year, the County shall not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will notify Vendor of the non-appropriation and this Contract will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County, which is attributable to non-appropriation of funds, shall constitute a breach of or default under this Contract.

Any unexpended grant funds shall revert to the County Department upon termination of this Contract.

18. **CHANGE IN CONTROL**

In the event of a change in "Control" of Vendor (as defined below), the County shall have the option of terminating this Contract by written notice to Vendor as specified under the terms of Section , A. Vendor shall notify the County within ten (10) days after it becomes aware that a change in Control is imminent or has occurred. As used in this Contract, the term "Control" shall mean the possession, direct or indirect, of either: (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in Vendor; or (ii) the power to direct or cause the direction of the management and policies of Vendor whether through the ownership of voting securities, by Contract or otherwise. (iii) the position of Executive Director, Board Chairman or more than 25% of the Board of Directors.

The Vendor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the County. The term "key personnel" includes any and all persons identified as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

19. **TERMINATION**

19.1 Termination Without Cause

The County or Vendor may terminate this Contract at any time without cause by giving thirty (30) calendar days prior written notice to the other party deliverable in person or by certified or registered mail to the persons identified as the Contract Administrator/Analyst for each party as set forth in Section 1.3. In the event the County terminates this Contract, the Vendor shall continue performing the service or work on the deliverable item until the termination date designated by the County in its termination notice. The County shall pay the Vendor for satisfactory work completed through the date of termination under the terms of this Contract.

19.2 Termination With Cause

19.2.1 If, through any cause, the Vendor shall fail to fulfill its obligations under this contract in a timely and proper manner, the County shall have the right to terminate this contract by giving written notice to the Vendor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Vendor under this contract shall, at the option of the County, become its property and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Vendor shall not be relieved of liability to the County for damages sustained by the County by virtue of the Vendor's breach of this Contract, and the County may withhold any payment due the Vendor for the purpose of setoff until such time as the exact amount of damages due the County from such breach can be determined. In case of default by the Vendor, without limiting any other remedies for breach available to it, County may procure the contract services from other sources and hold the Vendor responsible for payment of any excess cost occasioned thereby.

19.2.2 The filing of a petition for bankruptcy by the Vendor shall be an act of default under this Contract, and the County shall have the right to terminate this Contract by giving written notice to the Vendor and specifying the effective date thereof.

19.2.3 The County shall have shall have the right to terminate this Contract by giving written notice to the Vendor and specifying the effective date thereof if the Vendor takes or fails to take any action which constitutes grounds for termination under the terms of this Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Contract, or failure to provide the proof of insurance as

required by this Contract. County shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

19.3 Obligations Upon Expiration or Termination

Upon expiration or termination of this Contract, Vendor shall promptly (a) return to the County all computer programs (with the exception of software that Vendor provided as part of the equipment requirements), files, files in storage, documentation, data, media, related material and any other material and equipment and/or any other property acquired as referenced in Section 8 that is owned by the County; and (b) allow the County or a new Vendor access to the systems, software, infrastructure, or processes of the Vendor that are necessary to complete delivery of services. The return of files relative to the delivery of services in storage will be at no cost to the County. The expiration or termination of this Contract shall not relieve either party of its obligations regarding "Confidential Information", as defined in the Section .

19.4 Authority to Terminate

The County Manager or the County Manager's designee, including but not limited to the Director and the Assistant County Manager for the Consolidated Human Services Agency, is authorized to terminate this Contract on behalf of the County.

19.5 Cancellation of orders and subcontracts

In the event this Contract is terminated by the County for any reason prior to the end of the term, Vendor shall upon termination immediately discontinue all service in connection with this Contract and promptly cancel all existing orders and subcontracts, which are chargeable to this Contract. As soon as practicable after receipt of notice of termination, Vendor shall submit a Statement to the County showing in detail the services performed under this Contract to the date of termination.

19.6 No Effect on Taxes, Fees, Charges, or Reports

Any termination of this Contract shall not relieve Vendor of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve Vendor of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve Vendor from any claim for damages previously accrued or then accruing against Vendor.

20. INSURANCE REQUIREMENT

Throughout the Term, Vendor and any of its subcontractors will comply with the insurance requirements described in this section. In the event that Vendor fails to maintain required insurance, the County shall be entitled to terminate or suspend the Contract immediately.

The Vendor agrees to purchase and maintain the following insurance coverage during the Term:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Automobile Liability

Insurance with a limit of not less than \$1,000,000 per occurrence combined single limit each occurrence for bodily injury and property damage liability covering all owned, non-owned, and hired vehicles. | <input type="checkbox"/> Professional Errors & Omissions

Insurance with a limit of not less than \$1,000,000 per claim occurrence as shall protect the Vendor and the Vendor's employees for negligent acts, errors or omissions in performing the professional services under this contract. |
| <input checked="" type="checkbox"/> Commercial General Liability

Insurance with a limit not less than \$1,000,000 per occurrence/aggregate including coverage for bodily injury, property damage, products and completed operations, personal/advertising injury liability and contractual liability.

The County shall be named as the holder of the insurance policy and as an additional insured under Vendor's commercial general liability insurance policy for operations or services rendered under this Contract. | <input type="checkbox"/> Sexual Abuse and Molestation

Insurance with a limit of not less than \$1,000,000 per claim occurrence as shall protect the Vendor and the Vendor's employees |
| <input checked="" type="checkbox"/> Workers' Compensation | |

for negligent acts in performing the professional services under this contract.

retroactive date of no later than the first date services under this contract are to be performed.

Network Security and Privacy Liability
Network Security and Privacy Liability as shall protect the Company and its employees from claims alleging from the failure: (1) to provide adequate electronic or physical security to safeguard against the theft, loss or other threat to confidential information; or, (2) to protect information of Mecklenburg County in any format. This policy shall be specific to the performance of this Contract and shall provide combined single limit each occurrence/aggregate of \$3,000,000. Policy will include acts of rogue employees and have a

Fidelity Bond
Insuring the Vendor and/or his employees that have access to monies or properties of the County. Providing employee dishonesty coverage on all employees at a limit of not less than \$500,000, with the addition of Loss Payable endorsement (CR 20 14 08 07), Mecklenburg County named as loss payee; actual required coverage will vary according to the amount of money or property handled and will be determined by the County during processing of the Contract.

Vendor shall not commence any work in connection with the Contract until it has obtained all of the types of insurance set forth in this section and has furnished corresponding certificates of insurance to the County with the Contract. Vendor shall be responsible for notice to the County of any material changes (including renewals) to or cancellation of required insurance coverage. Vendor shall not allow any subcontractor to commence work without proof of the same insurance coverage required of Vendor under this Contract.

All insurance policies shall be written by insurers qualified to do business in the State of North Carolina. If any of the coverage conditions are met by a program of self-insurance, the Vendor must submit evidence of the right to self-insure under North Carolina law.

Payment of any deductible or retention shall be the sole responsibility of the Vendor or, as applicable, Vendor's subcontractor. The County shall not be liable for any deductible or self-insured retention in any insurance policy of Vendor.

Vendor's insurance shall be primary of any self-insurance or insurance policy carried by the County for all loss or damages arising from the Vendor's operations under this Contract. The Vendor and each of its subcontractors shall waive all rights of subrogation against the County and each of the Indemnitees.

21. GOVERNING LAW AND JURISDICTION

The parties acknowledge that this Contract is made and entered into in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the terms and provisions, as well as the rights, obligations, duties and liabilities of the parties under this Contract, and that North Carolina law shall govern the interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles).

Each party consents to the exclusive jurisdiction of the State and Federal courts located in Charlotte, Mecklenburg County, North Carolina in any proceeding arising out of or relating to this Contract, and waives any defense related to venue or inconvenient forum.

22. FORCE MAJEURE

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God constituting a Force Majeure Event.

An event which satisfies all of the conditions set forth above shall be referred to as a "Force Majeure Event." Upon the occurrence of a Force Majeure Event, Vendor shall be excused from any further performance of those of its obligations which are affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) Vendor continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

Upon the occurrence of a Force Majeure Event, Vendor shall immediately notify the County through its designated Program Manager by telephone or email as identified in Section 1.3.4 (to be confirmed by written notice within two (2) business days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents Vendor from performing its obligations for more than five (5) business days, the County shall have the right to terminate this Contract by written notice to Vendor.

Strikes, slowdowns, lockouts, walkouts, industrial disturbances and other labor disputes shall not constitute Force Majeure Events and shall not excuse Vendor from the performance of its obligations under this Contract.

23. CERTIFICATION REGARDING LOBBYING

- 23.1** No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal Contract, continuation, renewal, amendment or modification of any Federal Contract, grant, loan or cooperative Contract.
- 23.2** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan or cooperative Contract, Vendor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 23.3** Vendor shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants and Contracts under grants, loans and cooperative Contracts) and that all sub-recipients shall certify and disclose accordingly.
- 23.4** This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

24. DRUG-FREE WORKPLACE

- 24.1** The County is a drug-free workplace employer. For any employee assigned by the Vendor to provide services under this contract, on behalf of the County, the following shall be required:
 - 24.1.1** Notifying assigned employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and the actions that will be taken against employees for violations of such prohibition;
 - 24.1.2** Notifying each assigned employee that as a condition of the assignment, the employee will be expected to (i) abide by the terms of this provision and (ii) notify the Vendor of any criminal drug statute conviction not later than five (5) days after such conviction;
 - 24.1.3** Notify the County within ten days after receiving from an employee a notice of a criminal drug statute conviction or after otherwise receiving actual notice of such conviction;
 - 24.1.4** As a condition of continued assignment with the County provide to the County any measures implemented by the Vendor to address the issues of rehabilitation, counseling or participation in a drug treatment program; and
 - 24.1.5** Requiring any party to which it subcontracts any portion of the Services under the Contract to comply with these provisions.
- 24.2** Failure to comply with the above drug-free requirements for assigned employees during the performance of this Contract shall be grounds for suspension, termination or debarment

25. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER

- 25.1 By signing and submitting this document, the prospective lower tier participant is providing the certification set out below.
- 25.2 The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originate may pursue available remedies, including suspension and/or debarment.
- 25.3 The prospective lower tier participant will provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 25.4 The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 45 CFR Part 76. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- 25.5 The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
- 25.6 The prospective lower tier participant further agrees by submitting this document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 25.7 A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
- 25.8 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 25.9 Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

26. CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned, leased, or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, Contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this Contract, Vendor certifies that it will comply with the requirements of the Act. Vendor further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-grantees shall certify accordingly

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

27. BUSINESS ASSOCIATE AGREEMENT – Not Applicable

28. CONCLUSION

- 28.1** It is understood and agreed that the provisions of services to the Contract shall be subject to the limitations and conditions contained in the laws, regulations, guidelines and plans cited in this Contract, and that this Contract is subject to re-negotiation or revision to meet any new or revised rules, regulations or policies that may be issued by the Federal, State or County government, or any agency thereof. In the event of any new or revised rules, regulations or policies that prohibit the continuation of this Contract, or are otherwise in conflict with any provision of this Contract or any activity hereunder, the parties shall use their best efforts during a thirty (30) day period to mutually agree to amend the Contract so as to permit its valid and legal continuation. If after such thirty (30) day period, the parties are unable to amend this Contract, the Contract shall automatically terminate.
- 28.2** The parties agree that this Contract, with any Attachments incorporated herein, is the entire Contract between the parties with respect to its subject matter and there are no other representations, understandings, or contracts between the parties relative to such subject matter.
- 28.3** It is expressly understood and agreed that the Services provided to eligible customers/clients/patients pursuant to this Contract shall consist exclusively of those services specified in the program description incorporated into this Contract.
- 28.4** To the extent applicable, nothing in this Contract shall be construed as payment by either party to the other for patient referrals. Notwithstanding the anticipated effect of any of the provisions herein, neither party shall intentionally conduct itself under the terms of this Contract in a manner to constitute a violation of the Medicare and Medicaid Fraud and Abuse Provisions (42 USC 1395nn(b), 1396h(b), including the Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977 and the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 USC 1320a-7 et seq.)) or any other applicable state or federal laws

In WITNESS WHEREOF, the parties have duly executed this Contract as of the date first above written.

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this contract.

Vendor:

Name
(Print/Type):

Title (Print/Type):

Signature: _____ **Date:** _____

**MECKLENBURG COUNTY AUTHORIZED OFFICER SIGNATURES TO FOLLOW ON
SEPARATE PAGE**

The Remainder of this Page Intentionally Left Blank.

Exhibit A – Scope of Work

A-1. FOCUS AREA

A-2. PROGRAM RESPONSIBILITIES OF BOTH PARTIES

A. BOTH PARTIES AGREE

B. County RESPONSIBILITIES

1. Provide a Project Manager who will manage the programmatic area of the contract.
 - i. The Project Manager will:
 1. Be the point of contact for the Service Provider.
 2. Maintain communication with Service Provider and Procurement Analyst
 3. Keep Service Provider and Procurement Analyst informed of any policy changes.
 4. Monitor the Contract. Monitoring includes, but not limited to: review of monthly progress reports forwarded by provider or project manager, review of quarterly expenditures, random sampling of invoices and payments, may randomly conduct announced and unannounced site visits, annual monitoring to include review of customer records, eligibility, attendance/participation, expenditures and review of contract procedures.
 5. Attend scheduled meetings with Procurement Analyst and Service Provider to discuss Contract programmatic and/or administrative matters.

C. VENDOR RESPONSIBILITIES

1. Make a good faith effort to include environmental considerations supporting waste reduction, recycling purchase recycled and other environmentally preferable products whenever practical.
2. Employees and/or volunteers of Service Provider performing services under this contract must undergo a criminal background check and may be required to submit to drug screening at time of employment and/or random drug screening.
3. Comply with the Mecklenburg County Tobacco Use Policy, which prohibits County contractors and others performing services for the County, including Service Provider, from smoking, using smokeless tobacco (chew, dip, snuff) and/or electronic or other nicotine delivery devices (electronic cigarettes, cigars, hookahs, pipes, etc.) in County, City and Town Buildings; County, City and Town Grounds; County, City and Town Vehicles; the County Park System; and Buildings located within the County Park System.

D. PERFORMANCE STANDARDS

Performance standards are a set of expectations that HLT has for Service Providers. The purpose of performance standards is to state what results are expected for performance to be considered satisfactory. These are expectations that HLT has for Service Providers in addition to the description of services agreed to by the Service Provider in each Contract. The additional expectations include tracking outcomes, monitoring progress and presenting evidence to demonstrate that services are efficient and effective, and they are delivered using the County's Customer Service Standards which include: Service Quality, Timeliness, Courtesy and Respect, Clear Communication and Ethical Integrity.

HLT is committed to providing technical assistance to Service Providers for the achievement of continuous quality improvement. By agreeing to the terms and conditions of the Contract, Service Providers are required to accept this assistance when it is offered and implement systems that target ongoing quality improvement. It is the intention of HLT to give Service Providers sufficient opportunity to improve performance as it relates to the following Performance Standards and avoid the need to impose the consequences in each Contract.

E. Issue Tracking and Escalation:

Noncompliance issues are problems identified in evaluations that reflect a lack of adherence to applicable duties, responsibilities, performance standards, terms and conditions of this contract. In the event of noncompliance issues, resolution shall be sought in accordance with the following escalation mechanisms to ensure that the appropriate level of management can resolve the issue:

1. Project Manager should attempt to resolve the problem by working with the Vendor's onsite supervisor/lowest possible management level.
2. Project Manager should attempt to resolve the problem by working with the Vendor's next level manager
3. Vendor submits a corrective action that includes the following:
4. If the issues still persist, the contract shall be terminated based on the termination language above.

Exhibit B – Conflict of Interest Policy

Cover Page for Vendor Conflict of Interest Policy
Insert behind this page.
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CONFLICT OF INTEREST

Instructions: Each organization that chooses to use this template should take care to make changes that reflect the individual organization, put this on your letterhead which includes name and address and sign.

Conflict of Interest Defined:

A conflict of interest is defined as an actual or perceived interest by a (staff member/Board member) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an employee/Board member has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an employee and a Board member, or a person who is an employee and who hires family members as consultants.

Employee Responsibilities:

It is in the interest of the organization, individual staff, and Board members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest, or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics and personal integrity even though law, regulation, or custom does not require them.

Acceptance of Gifts:

Employees, members of employee's immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization; and
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

Signature of Authorized Official must be the same as the person signing contract.

Conflict of Interest Policy was adopted by the Board of Directors/Trustees or other governing body in a meeting held on the _____ day of _____, _____.

Exhibit C – Overdue Tax Letter

OVERDUE TAXES

BE SURE TO READ THE INSTRUCTIONS PRIOR TO SIGNING.

Instructions: Put the information on your letterhead which includes name and address and sign. Enter the appropriate data in the yellow highlighted areas. All documents requiring the signature of the authorized representative for the Vendor must be an original signature and the same representative must sign **each copy** of the **Overdue Tax Letter, Conflict of Interest and Contract**.

Entity's Letterhead

[Date of Certification (mmddyyyy)]

To: Mecklenburg County

Certification:

We certify that the [insert organization's name] does not have any overdue tax debts, as defined by N.C.G.S. 105-243.1, at the Federal, State, or local level. We further understand that any person who makes a false Statement in violation of N.C.G.S. 143C-6-23 c is guilty of a criminal offense punishable as provided by N.C.G.S. 143C-10-1b.

Sworn Statement:

[Name of Board Chair or Authorized Official] and [Name of Second Authorizing Official if you have] being duly sworn, say that we are [Board Chair or Authorized Official] and [Title of the Second Authorizing Official], respectively, of [insert name of organization] of [City] in the State of [Name of State]; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

Board Chair or Authorized Official

(One signature must be the same as the person signing the contract)

¹ G.S. 105-243.1 defines: Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.

Exhibit D – False Claims Act – Contractors and Suppliers Education and Notice

The Deficit Reduction Act (DRA) of 2005 requires all entities receiving \$5,000,000 or more from the Medicaid program to provide employees, contractors or agents with information concerning the False Claims Act (FCA). This notice provides all affected individuals the required information.

The FCA imposes civil liability on organizations and individuals who make false claims to the government for payment. Under FCA, anyone who violates the act is liable for a civil penalty up to \$22,927 per claim, plus three times the amount of damages the government sustains. Additional punishment may include excluding violators from participating in Medicaid and other government programs. Anyone intentionally participating in the submission of a false claim may also be liable to the United States government for the costs of civil action to recover penalties or damages.

Each person can be held liable under the FCA if he/she:

- Knowingly presents the government with a false claim payment or approval
- Knowingly makes a false statement to get a fraudulent claim paid by the government
- Conspires to defraud the government by getting a false claim paid
- Knowingly makes a false record or statement to conceal, avoid or decrease an obligation to pay the government, or
- Causes a false claim to be submitted

“Knowing” is defined under the FCA to include the submission of a claim in “reckless disregard” of the truth or falsity of the claim or “deliberate ignorance” of its propriety. Managerial staff can be held accountable in situations where they refuse to explore a credible concern about compliance requirements for a particular bill, claim, or practice.

It is essential that each employee be aware of compliant to existing standard for activities performed on the job. Areas include, but are not limited to record documentation, coding, billing, accounts receivable or compliance with state/federal regulatory requirements.

Qui Tams

“Qui tams” is a legal term meaning that those with evidence of fraud against federal programs or contracts can sue the wrongdoer on behalf of the government. The FCA contains provisions that allow employees, competitors, and third parties to bring suits on behalf of the government as qui tam realtors. A qui tam realtor or whistleblower is the one who originally brings the information to the court as a plaintiff. If the government believes the case has merit, the government will pursue the matter by investigating and prosecuting the entity and recovering damages under FCA. The realtor may be entitled to receive from 10% to 25% of the final settlement or judgment. If the government declines to intervene in the lawsuit, the realtor can proceed on his/her own to trial under the FCA allegations and receive up to 30% of the settlement.

State False Claims Act

The North Carolina Medical Assistance Provider False Claims Act (MAPFC) of 1997 makes it unlawful for any Medicaid provider to knowingly make or cause to be made a false claim for payment. Under the MAPFC “knowingly” means that a provider:

- Has actual knowledge of the information
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

Providers in violation of this act may be assessed a penalty by the court of \$5,000 to \$10,000 plus three times the amount of damages which the Medicaid Program sustained.

In addition to MAPFC, North Carolina has adopted a state version of the False Claims Act that generally mirrors the federal False Claims Act. The actions that trigger civil penalties under the North Carolina Act are similar to those of the federal False Claims Act. The North Carolina False Claims Act also has a qui tam provision. Like the federal False Claims Act, the North Carolina law includes provisions to prevent employers from retaliating against employees who report their employer’s false claims.

Acknowledgement

By my signature below, I acknowledge that I have read the “*False Claims Act – Contractors and Suppliers Education and Notice*”.

Printed Name: _____

Date: _____

Signature: _____

Exhibit E – STATE CERTIFICATIONS

Contractor Certifications Required by North Carolina Law

Instructions: The person who signs this document should read the text of the statutes and Executive Order listed below and consult with counsel and other knowledgeable persons before signing. The text of each North Carolina General Statutes and of the Executive Order can be found online at:

- Article 2 of Chapter 64: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_64/Article_2.pdf
- G.S. 133-32: <http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=133-32>
- Executive Order No. 24 (Perdue, Gov., Oct. 1, 2009): <http://www.ethicscommission.nc.gov/library/pdfs/Laws/EO24.pdf>
- G.S. 105-164.8(b): http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_105/GS_105-164.8.pdf
- G.S. 143-48.5: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-48.5.html
- G.S. 143-59.1: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.1.pdf
- G.S. 143-59.2: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.2.pdf
- G.S. 143-133.3: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-133.3.html
- G.S. 143B-139.6C: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143B/GS_143B-139.6C.pdf

Certifications

- (1) Pursuant to **G.S. 133-32 and Executive Order No. 24 (Perdue, Gov., Oct. 1, 2009)**, the undersigned hereby certifies that the Contractor named below is in compliance with, and has not violated, the provisions of either said statute or Executive Order.
- (2) Pursuant to **G.S. 143-48.5 and G.S. 143-133.3**, the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system." E-Verify System Link: www.uscis.gov
Local government is specifically exempt from Article 2 of Chapter 64 of the North Carolina General Statutes. However, local government is subject to and must comply with North Carolina General Statute 153A-99.1, which states in part as follows:
Counties Must Use E-Verify - Each county shall register and participate in E-Verify to verify the work authorization of new employees hired to work in the United States.
- (3) Pursuant to **G.S. 143-59.1(b)**, the undersigned hereby certifies that the Contractor named below is not an "ineligible Contractor" as set forth in G.S. 143-59.1(a) because:
- (a) Neither the Contractor nor any of its affiliates has refused to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina when the sales met one or more of the conditions of G.S. 105-164.8(b); **and**
- (b) [check **one** of the following boxes]
- Neither the Contractor nor any of its affiliates has incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001; **or**
- The Contractor or one of its affiliates **has** incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001 **but** the United States is not the principal market for the public trading of the stock of the corporation incorporated in the tax haven country.
- (4) Pursuant to **G.S. 143-59.2(b)**, the undersigned hereby certifies that none of the Contractor's officers, directors, or owners (if the Contractor is an unincorporated business entity) has been convicted of any violation of Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange Act of 1934 within 10 years immediately prior to the date of the bid solicitation.
- (5) Pursuant to **G.S. 143B-139.6C**, the undersigned hereby certifies that the Contractor will not use a former employee, as defined by G.S. 143B-139.6C(d)(2), of the North Carolina Department of Health and Human Services in the administration of a contract with the Department in violation of G.S. 143B-139.6C and that a violation of that statute shall void the Agreement.
- (6) The undersigned hereby certifies further that:
1. He or she is a duly authorized representative of the Contractor named below;
 2. He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Contractor; and
 3. He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1 and -59.2 shall be guilty of a Class I felony.

Vendor's Name

Signature, Vendor's Authorized Agent

Date

Print or Type Name

Title