

**AGREEMENT FOR **XXXX** FOR THE YORK COUNTY **XXXX** DEPARTMENT**

(RFP # **Click or tap here to enter text.** (hereinafter “COUNTY’S RFP”))

THIS AGREEMENT, made and entered into this **Click or tap here to enter text.** day of **Click or tap here to enter text.**, **XXXX** by and between **York County** (COUNTY), having its principal office at 6 South Congress Street, York, South Carolina 29745 and **Click or tap here to enter text.** (CONTRACTOR), having its principal office at **Click or tap here to enter text.**

WHEREAS, authorization to enter into this Agreement was granted by York County Council on **Click or tap here to enter text.** **Click or tap here to enter text.**, **XXXX**

NOW THEREFORE, in consideration of the Contract sum and or the mutual promises and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. TERM

The term of this Agreement shall commence on the later of **Click or tap to enter a date.** or the Effective Date and shall end on **Click or tap to enter a date.**

The CONTRACTOR is not authorized to provide any Work, or incur any expenses, until this Agreement has been fully executed.

2. SCOPE OF THE WORK

2.1 The CONTRACTOR shall perform all duties described in **Exhibit A:** CONTRACTOR’s Scope of Work.

2.2 The COUNTY shall perform all duties described in **Exhibit B:** COUNTY’s Scope of Work.

2.3 Both the COUNTY and the CONTRACTOR shall designate an employee as the primary contact for this Agreement and the duties performed under this Agreement.

3. **THE CONTRACT SUM**

3.1 The COUNTY shall pay the CONTRACTOR for the faithful performance of its duties at the rates and under the terms stated in **Exhibit C: Billing Rate and Payment**.

4. **COMMENCEMENT AND COMPLETION OF WORK**

4.1 The CONTRACTOR will commence its duties upon notice from the COUNTY that it may proceed.

4.2 The COUNTY will utilize the CONTRACTOR's employees on an as-needed basis and according to the schedule described in Exhibit A, Section C.

5. **GENERAL TERMS AND CONDITIONS**

5.1 The CONTRACTOR, including the employees of the CONTRACTOR, must comply with all applicable Federal, State, and County laws pertaining to contracts entered into by governmental agencies, including non-discrimination employment. The CONTRACTOR shall not discriminate on the basis of race, color, creed, religion, handicap, or national origin in their employment practices.

5.2 The CONTRACTOR shall not knowingly employ, during the period of a contract, or any extensions to it, any personnel who are also in the employ of York County and who are providing services involving this request or services similar in nature to the scope of this request to the COUNTY. Furthermore, the CONTRACTOR shall not knowingly employ, during the period of a contract or any extensions to it, any York County employee who has participated in the making of a contract until at least two years after his or her termination of employment with York County.

5.3 **PROHIBITION ON GRATUITIES:** Neither the CONTRACTOR, nor any person or business employed by the CONTRACTOR in the performance of this request, shall offer or give any gift, money or anything of value, or any promise for future reward or compensation to any York County employee at any time.

5.4 **INDEMNIFICATION:** The CONTRACTOR agrees to protect, defend, indemnify, and forever hold harmless, the COUNTY, its agents, officers, and employees, from and against any and all claims, liabilities, damages, costs, actions, proceedings, of any nature whatsoever, however alleged or termed, or in any lawsuits, arising in any manner out of any action or failure to act, by the CONTRACTOR, its officers, agents, and employees, or relating to or arising out of the performance or failure to perform, by the CONTRACTOR, its officers, agents, and employees, any obligations arising under its agreement with the COUNTY, or any other type claim or lawsuit whatsoever, however alleged or termed, which may arise at any time as a result of or related to the provision of service(s) for the COUNTY by the CONTRACTOR, without regard to the source, nature, or validity of the claim or lawsuit. Losses, liabilities, expenses, and claims for damages shall include, but not be limited to, civil and criminal fines and penalties, loss of use or services, claims for

injury, damage, disability, property damage, or death, injury to real or personal property, and attorneys' fees, costs, and expenses incurred by the COUNTY or any of its agents, officers, and employees.

5.5 The CONTRACTOR shall not preclude the COUNTY from receiving the benefits of any insurance the CONTRACTOR may carry which provides for indemnification for any loss or damage to property in the CONTRACTOR's custody and control, where such loss or destruction is to County property. The CONTRACTOR shall do nothing to prejudice the COUNTY's right to recover against third parties for any loss, destruction or damage to County property.

5.6 DRUG-FREE WORKPLACE: During the performance of this Agreement, the CONTRACTOR must inform employees that the COUNTY maintains a drug-free workplace; post notification of the COUNTY's drug-free workplace policy in conspicuous places, available to employees and applicants for employment; provide employees with a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specify the actions that will be taken against employees for violations of such prohibition; and state in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR that the CONTRACTOR maintains a drug-free workplace.

5.7 APPLICABILITY/JURISDICITON OF SOUTH CAROLINA LAW AND COURTS: The CONTRACTOR agrees to comply with the laws of South Carolina which require The CONTRACTOR to be authorized and/or licensed to do business with this State. Notwithstanding the fact that applicable statues may exempt or exclude The CONTRACTOR from requirements that it be authorized and/or licensed to do business in this State, by submission of this signed Agreement, The CONTRACTOR agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina as to all matters and disputes arising or to arise under this Agreement and the performance thereof, including any questions as to liability for taxes, licenses, or fees levied by the State.

5.8 ASSIGNMENT: This Agreement may not be assigned, sublet, or transferred without the written consent of the COUNTY.

5.9 OWNERSHIP OF MATERIAL: Ownership of all data, material, and documentation originated and prepared for the COUNTY pursuant to this Agreement shall belong exclusively to the COUNTY. Additionally, all equipment, materials, and documents provided by the COUNTY for the CONTRACTOR's work shall remain the property of the COUNTY and shall be returned to the COUNTY upon termination of this Agreement.

5.10 SUBCONTRACTING: If the CONTRACTOR intends to complete any part of the work with subcontractors, the CONTRACTOR must identify the subcontracting organization, the corporate or company name, and the contractual arrangements made therewith.

5.11 RECORDS RETENTION & RIGHT TO AUDIT: The COUNTY shall have the right to audit books and records of the CONTRACTOR pertaining to this Agreement. Such books and records shall be maintained for a period of three (3) years from the date of final payment under this Agreement. For all audits, the CONTRACTOR shall make available to the COUNTY access to its computer files containing the history of contract performance and all other documents related to the audit. Additionally, any software used by the CONTRACTOR shall be made available for auditing purposes at no cost to the COUNTY.

5.12 COUNTERPARTS: This Agreement may be executed in multiple counterparts, each of which deemed an original, but all of which constitute one and the same agreement.

5.13 CONFIDENTIALITY AND NON-DISCLOSURE: The CONTRACTOR acknowledges and agrees that, in the course of providing services to the COUNTY, the CONTRACTOR will obtain confidential information and records about the COUNTY, including, but not limited to, information about employees, the COUNTY practices and procedures and financial information. The CONTRACTOR further agrees to maintain the confidentiality of all such information, and not to disclose any such information, at any time, to any individual or party not bound by this Agreement.

5.14 ENTIRE AGREEMENT: This Agreement and the attached Exhibits A through D constitute the entire Agreement between the parties and supersede any prior understanding between them. No representations, arrangements, understandings, or agreements relating to the subject matter exist among the parties except as expressed in this Agreement. Any modification or amendment to this Agreement shall be void unless it is in writing and signed by the parties.

6. DISPUTE RESOLUTION

6.1 The COUNTY and CONTRACTOR agree to negotiate all disputes between them in good faith prior to exercising their rights under law.

6.2 Any claim, dispute or other matter in question arising from or related to this Agreement or the performance or breach thereof, which cannot be resolved through direct discussions between parties shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by either party, and only after both parties have completed the mediation process.

6.3 Through mediation, the CONTRACTOR and the COUNTY shall endeavor to resolve claims, disputes, or other matters in question between them by mediation in an informal process in which a third-party mediator facilitates discussion between the parties. The parties may designate a mediator mutually agreeable to both the CONTRACTOR and the COUNTY to conduct the mediation. If the parties are unable to agree upon a mediator, mediation shall be conducted in accordance with the mediation provision of the South Carolina Circuit Court Alternative Dispute Resolution Rules. The mediation shall be conducted in York County, South Carolina. A request for mediation shall be filed in writing with the other party to this Agreement, and legal or equitable proceedings shall be

stayed pending mediation for a period of sixty (60) days from the date of the request for mediation is filed, unless stayed for a longer period of time by agreement of the parties or court order. The cost of a third-party mediator will be shared equally by the parties.

6.4 If the parties reach an agreement during the mediation process, they shall reduce the contract to writing and sign it with their attorneys, if any. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

6.5 In any action or proceedings to enforce or interpret any provision of this Agreement, or where any provision herein is validity asserted as a defense, each Party shall bear its own attorney fees, costs, and expenses.

7. TERMINATION

7.1 This Agreement automatically terminates [Click or tap here to enter text.](#) after the Effective Date. However, the parties may agree to a maximum of [Click or tap here to enter text.](#) one-year extensions to this Agreement. Both parties must approve extensions to this Agreement in writing.

7.2 Termination for Convenience

7.2.1 Should a dispute arise, and if, after a good faith effort at resolution, the dispute is not resolved, either party may terminate this Agreement by providing thirty (30) days written notice to the other party.

7.2.2 In the event that this Agreement is terminated or canceled upon request and for the convenience of the COUNTY without the required (30) days advance written notice, and then the COUNTY shall negotiate reasonable termination costs, if applicable.

7.3 Termination for Cause

7.3.1 Termination by the COUNTY for cause, default, or negligence on the part of the CONTRACTOR shall be excluded from the foregoing provisions; termination costs, if any shall not apply. The thirty (30) days advance notice requirement is waived, and the below default provision shall apply.

7.3.2 In case of default by the CONTRACTOR, York County reserves the right to purchase any or all items or services in default on the open market, charging the CONTRACTOR with any excessive costs.

7.4 Failure to Appropriate Funds

7.4.1 Notwithstanding any other provision of this Agreement, all obligations of the COUNTY under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Should York County Council decide not to appropriate funds for the items or services provided under this

Agreement, the COUNTY shall terminate this Agreement and shall only owe the CONTRACTOR for items or services provided up to the termination.

8. INSURANCE

8.1 The CONTRACTOR must provide proof of insurance to include professional liability; workers compensation, employer's liability and general liability on an appropriate Accord form (Accord 25) prior to commencing work. The CONTRACTOR must procure and maintain, for the duration of this project, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONTRACTOR, its agents, representatives, employees or subcontractors. The CONTRACTOR must provide the COUNTY with Certificates of Insurance for the types and amounts of insurance specific in **Exhibit D: Insurance** prior to commencing the work. The COUNTY shall be named as "Additional Insured" on all Certificates of Insurance except workers compensation.

9. HIRING OF AND CONTRACTOR'S EMPLOYEES

9.1 In consideration of the CONTRACTOR's services, the COUNTY shall not employ CONTRACTOR's employees on assignment before 520 hours of employment or within 365 days of assignment end without the CONTRACTOR's written approval. A breach of this provision shall entitle the CONTRACTOR to recover a conversion fee. The conversion fee shall be at the rate of 1% of the total annual salary of said employee, multiplied by each unit of \$1,000.00 in said annual salary, i.e. \$10,000 annual salary = conversion fee of \$1,000.00, \$11,000 annual salary = conversion fee of \$1,210.00, etc. In no instance shall the conversion fee be less than two hundred dollars (\$200.00).

9.2 The COUNTY can hire CONTRACTOR's employees after 520 hours worked with no conversion fee. The COUNTY must contact the CONTRACTOR to discuss transition of the employee. Payroll transfer employees are not subject to conversion fees.

10. CONFLICTING LANGUAGE

10.1 In the event there is any conflicting language in this Agreement that requires interpretation, the language and obligations as defined in the **COUNTY'S RFP #XXXX** will prevail; the terms of the **COUNTY'S RFP #XXXX** are hereby incorporated herein by reference.

11. FORCE MAJEURE

11.1 In the event either party is unable to perform its obligations under the terms of this Agreement because of events beyond such Party's reasonable control such as Acts of God Including fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, accident, epidemic, pandemic, any strike or labor disturbance, or any other event similar to

those enumerated above, such party shall not be liable for damages to the other for any damages resulting from such failure to perform or otherwise from such causes. Notice of a Party's failure or delay in performance due to force majeure must be given to the unaffected Party promptly but no later than fourteen (14) days after its occurrence which notice shall describe the force majeure event and the actions taken to minimize the impact thereof. Notwithstanding the foregoing, the parties shall act in good faith to seek a resolution of the delay or failure to perform.

12. EQUAL EMPLOYMENT OPPORTUNITY

12.1 The CONTRACTOR including the employees of the CONTRACTOR must comply with all applicable Federal, State, and County laws pertaining to contracts entered into by governmental agencies, including non-discrimination employment. Contracts entered into on the basis of submitted proposal responses are revocable if contrary to law. Contracts for work resulting from this request will obligate the CONTRACTOR to not discriminate on the basis of race, color, creed, religion, handicap, or national origin in their employment practices.

13. CERTIFICATION REGARDING DEBARMENT SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

13.1 The CONTRACTOR certifies, by execution of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State, Federal department, or agency. It further agrees by execution of this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the CONTRACTOR or any lower tier participant is unable to certify to this statement, it must attach an explanation to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date written above.

YORK COUNTY

XXXX

By: _____
Christi P. Cox
County Council Chairwoman

By: _____

Name: _____

Date: _____

Its: _____

Date: _____

Attest: _____
Joshua S. Edwards
County Manager

Attest: _____

Name: _____

Date: _____

Date: _____

Address for Notices:

York County
c/o County Manager
P.O. Box 66
York, SC 29745

With copy to:
Michael Kendree
York County Attorney
P.O. Box 299
York, SC 29745

With copy to:

EXHIBIT A

CONTRACTOR'S SCOPE OF WORK

***Scope as referenced in bidding document**

A. DESCRIPTION OF WORK

B. SCOPE OF SERVICES.

C. SCHEDULE

SAMPLE

EXHIBIT B

COUNTY'S SCOPE OF WORK

A. SCOPE OF SERVICES

The COUNTY will perform the following duties.

SAMPLE

EXHIBIT C

BILLING RATE AND PAYMENT

Insert appropriate payment and billing terms from RFP.

A. Rate Schedule

B. Billable Hours and Overtime

C. Payment Terms

The CONTRACTOR will submit an invoice monthly to the COUNTY for all charges accrued during the prior month.

1. Payment is due within thirty days of receipt of each invoice
2. Disputed Charges
 - a. The County must dispute any charges within thirty days of receipt of the invoice.
 - b. The County may deduct disputed charges from the invoice and pay the remaining undisputed charges.
 - c. The COUNTY and the CONTRACTOR agree to work together to resolve any disputed charges.

**EXHIBIT D
INSURANCE**

A. The CONTRACTOR must procure and maintain, for the duration of this project, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this Agreement by the CONTRACTOR, its agents, representatives, employees, or subcontractors. The COUNTY requires the CONTRACTOR to maintain the following insurance:

Type of Insurance	Limits of Liability
a. Commercial General Liability	\$500,000 combined single limit per occurrence for bodily injury, personal injury, and property damage
b. Worker's Compensation	As required by South Carolina law
c. Employer's Liability	\$100,000 Bodily by Accident, \$500,000 Bodily Injury by Disease, \$100,000 Bodily Injury by Disease Each Employee
d. Professional Liability	\$200,000 per occurrence
e. Automobile Liability	\$500,000 combined single limit occurrence

B. The CONTRACTOR shall name the COUNTY as an additional insured on all certificates of insurance except worker's compensation.

C. The CONTRACTOR shall provide signed certificates of insurance prior to commencing work under this Agreement. Such certificates of insurance shall provide for thirty (30) days written notice to the COUNTY prior to cancellation or material modification of any insurance referred to herein.