

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

Contract Request ID: 3363
Fiscal Year: 2024
Project: CEASE HARM AUDIT
Supplier: CARTER DEVELOPMENT LLC

THIS AGREEMENT is entered into this August 1, 2023 by and between Buncombe County, a body politic and corporate of the State of North Carolina (hereinafter referred to as the "County"), and Carter Development Group, LLC (hereinafter referred to as the "Contractor").

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Effective Period: This Contract shall be effective on August 1, 2023 and shall terminate on April 30, 2024.
2. Independent Contractor: The Contractor is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this Contract. Such employees shall not be employees of or have any individual contractual relationship with the County. The Contractor must, upon request, provide the names of all owners, managers, and management entities, including those of any subcontractor, which are used in the performance of and compliance with the terms and conditions of this contract.
3. Subcontracting: The Contractor shall not subcontract any of the work contemplated under this Contract without prior written approval from the County. Only the subcontractor specified in the written approval documents are permitted upon award of the subcontract. The County shall not be obligated to pay for any work performed by any unapproved subcontractor. Any approved subcontractor shall also be subject to all terms and conditions of this Contract. The Contractor is ultimately responsible for providing the services of this Contract and shall be responsible for the performance of all of its subcontractors, agents, and employees.
4. Conflict of Interest: Per N.C. General Statute 14-234, no public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract. The term "public officer" is defined as an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contractor of a public agency.
A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract; or if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes action on the contract, whether or not the public officer actually participates in that

action, unless the contract is approved under an exception to this section under which the public officer is allowed to benefit and is prohibited from voting.

There is a conflict of interest when a public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.

By signing this agreement, the Contractor certifies there is no conflict of interest.

5. Contract Administrators: All notices permitted or required to be given by one party to the other and all questions about the Contract from one party to the other shall be addressed and delivered to the other party's Contract Administrator. The name, post office address, street address, telephone number, and email address (if available) of the parties' respective initial Contract Administrators are set out below. Either party may change its Contract Administrator and contact details by giving timely written notice to the other party.

- a. Contract Administrator for the Contractor:

Dr. Adrian N. Carter, PhD
Founder & Principal Consultant
8147 Lagos de Campo Boulevard
Tamarac, Florida 33321
954-806-8658
drcarter@carterdevgroup.com

- b. Contract Administrator for the County:

Dr. Noreal Armstrong, PhD
Chief Equity & Human Rights Officer
200 College Street
Asheville, North Carolina 28801
noreal.armstrong@buncombecounty.org
Office: 828-250-6523
Mobile: 828-712-0432

City of Asheville Contract Administration
Brenda Mills, Equity & Inclusion Director
bmills@ashevillenc.gov
Office: 828-232-4517
Mobile: 828-712-2324

- c. Contractor agrees to contact the County's Contract Administrator immediately with any problems or questions regarding any of the location sites.

- d. Buncombe County personnel, listed above, will serve as the Contract Administrator and will act in conjunction with the City of Asheville's Contract Administration for the best interests of the organizations.
6. Amendment: This Contract may not be amended orally or by performance. Any amendment or modification shall be made in written form and executed by duly authorized representatives of the County and the Contractor.
7. Confidentiality: Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information, including but not limited to confidential personnel information, it will safeguard and not further disclose the information except as provided by law.
8. Indemnification: The Contractor agrees to indemnify, hold harmless, and defend the County and any of its officers, agents and employees, from any claims of third parties arising out of any act or omission of the Contractor in connection with the performance of this contract. Contractor agrees to indemnify and hold harmless County, its officers, agents, and employees from any and all claims, demands, costs and expenses, including reasonable attorney's fees, arising from this Contract or from any breach or default on the part of Contractor in the performance of any part of this Contract, or from any act or negligence of Contractor, its officers, agents, servants, employees, or subcontractors unless caused by the negligence of County or its agents. In case of any action, suit, or proceeding brought against County, its officers, agents, or employees by reason of any such claim, upon notice from County, Contractor agrees and covenants to defend such action, suit, or proceeding by counsel reasonably satisfactorily to County. Contractor's obligation and responsibility under this section shall survive the termination of this Contract.

The County agrees to indemnify, hold harmless, and defend the Contractor and any of its officers, agents and employees, from any claims of third parties arising out of any act or omission of the County in connection with the performance of this contract. The County agrees to indemnify and hold harmless Contractor, its officers, agents, and employees from any and all claims, demands, costs and expenses, including reasonable attorney's fees, arising from this Contract or from any breach or default on the part of County in the performance of any part of this Contract, or from any act or negligence of the County, its officers, agents, servants, employees, or subcontractors unless caused by the negligence of the Contractor or its agents. In case of any action, suit, or proceeding brought against the Contractor, its officers, agents, or employees by reason of any such claim, upon notice from Contractor, the County agrees and covenants to defend such action, suit, or proceeding by counsel reasonably satisfactorily to Contractor. The County's obligation and responsibility under this section shall survive the termination of this Contract. Nothing herein shall be construed as a waiver on the part of the County to any defense of any claim, including, but not limited to the defense of governmental immunity.

And that the County's obligations under this paragraph shall be limited to the extent and manner of recovery pursuant to County's self-insured claim policies and North Carolina law.

9. Intellectual property: The County and Contractor recognize and agree that absent a specific written agreement, nothing contained in this Agreement shall be construed as granting any property rights, by license or otherwise, to any trade secret, confidential information, or other intellectual property of either party disclosed pursuant to this Agreement.

10. Insurance:

- a. Contractor agrees their insurance policies shall be endorsed evidencing the minimum insurance coverage and limits set forth below prior to the County's signing of this Agreement. The insurance coverage and limits set forth below shall be deemed minimum coverage limits and shall not be construed in any way as a limitation on Contractor's duty to carry adequate insurance. All policies of insurance shall be primary insurance and non-contributory with respect to all other available sources. The minimum insurance coverage which the Contractor shall procure and maintain at its sole cost and expense during the term of the Agreement is as follows:
- i. **Worker's Compensation.** Coverage at the statutory limits in compliance with applicable State and Federal laws. Contractor shall ensure that any subcontractors also have workers compensation coverage at the statutory limits.
 - ii. **Employer's Liability.** Coverage with minimum limits of \$1,000,000 each employee accident and \$1,000,000 each employee disease.
 - iii. **Commercial General Liability.** Insurance covering all operations performed by the Contractor with a minimum limit of \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations or Contractual Liability. Buncombe County shall be named as an additional insured under the policy.
 - iv. **Professional Liability.** Insurance covering the Contractor for acts, errors, or omissions in performance of the Agreement with a minimum limit of \$1,000,000 per claim with a \$2,000,000 aggregate. The policy shall remain in effect two (2) years following expiration or termination of this Agreement and shall provide for a retroactive date no later than the inception date of this Agreement.
 - v. **Business Automobile Liability.** Insurance covering all owned, non-owned, and hired vehicles used in performance of this Agreement. The minimum combined single limit per occurrence shall be \$1,000,000 and shall include uninsured/underinsured motorist coverage per N.C. Gen. Stat. § 20-279.21.
 - vi. **Crime Policy.** Covering acts of employee dishonesty, forgery or alteration and computer fraud with minimum limit of \$1,000,000 per loss. The policy

shall include coverage for all directors, officers, agents and employees of the Contractor.

1. The bond or policy shall include coverage for extended theft and mysterious disappearance.
2. The bond or policy shall not contain a condition requiring an arrest and conviction.

vii. **Property.** Contractor shall not be obligated to maintain property insurance on Contractor's furnishings, fixtures, equipment and personal property. All furnishings, fixtures, equipment, and property of every kind and description of Contractor and of persons claiming by, through, or under Contractor which may be located on County property shall be at the sole risk and hazard of Contractor and no part of loss or damages to such property from whatever cause shall be the responsibility of, charged to, or borne by the County.

viii. **Umbrella/Excess Liability.** If the underlying liability policy limits are less than those required, Contractor may provide an excess or umbrella policy to meet the required limits of insurance. The excess or umbrella policy shall extend coverage over the underlying policies herein. Any additional insured under any policy of the underlying insurance will automatically be an additional insured under this insurance if applicable.

10. Additional Insurance Provisions:

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

The Contractor shall provide the County with certificates of insurance on an approved form, evidencing the above amounts. Buncombe County shall be named as additional insureds under the commercial general liability policy. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under the Contract and remain in effect for the duration of the Agreement.

Each insurance policy required above shall state that coverage shall not be canceled, except with written notice to the County, delivered in accordance with the policy provisions. All insurance shall be procured from reputable insurers authorized and qualified to do business in North Carolina with a rating of A- VII or better as determined by A. M. Best Company and shall be in a form acceptable to the County.

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Buncombe County are additional insureds on insurance required from subcontractors.

Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The limits of coverage under each insurance policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement.

Nothing in this section is intended to affect or abrogate Buncombe County's governmental immunity.

11. Termination: Either party may terminate this Contract for any reason, or for no reason, by giving the other party thirty (30) days written notice or immediately by giving the other party written notice for cause.

12. Scope of Work:

County shall:

- a. Identify a County Project Manager to coordinate activities related to audit activities under the purview of Buncombe County Government, included but not limited to providing access to data, information and resources owned by Buncombe County Government.
- b. Ensure the identification of a City Project Manager to coordinate activities related to audit activities under the purview of the City of Asheville Government, included but not limited to providing access to data, information and resources owned by City of Asheville Government.
- c. Make payment to the Contractor for services/activities purchased as described in this Contract and as outlined in "Attachment B" to this Contract. If there are conflicting terms in the Attachment, this Contract shall control.

Contractor shall:

- a. Provide the following services as outlined in "Attachment A" to this Contract. If there are conflicting terms in the Attachment, this Contract shall control.

13. Payment:

- a. Payment from the County to the Contractor under the terms of this Contract will be up to a maximum of \$174,375. Fiscal management of the direct provision of service will be the responsibility of the Contractor.
- b. The Contractor will be paid by acceptance by the County of each deliverable and/or activity at a fixed amount, by itemized verified invoice for additional and/or

auxiliary services and as outlined in “Attachment B” to this Contract. If there are conflicting terms in the Attachment, this Contract shall control.

- c. Contractor shall be solely responsible for any travel or other costs or expenses incurred by Contractor in connection with the performance of this Agreement that are not outlined in “Attachment B” and in no event shall County reimburse Contractor for any such costs or expenses.

14. Compliance with Laws:

- a. Contractor shall comply with all state, federal, and local laws, ordinances, codes, rules, and regulations governing performance of this Contract, including but not limited to, equal opportunity employment laws, O.S.H.A., minimum wage and hour regulation, and North Carolina State Building Code regulations.
- b. E-Verify. Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Contractor shall also require any and all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as applicable.
- c. Recipients of Buncombe County funds must ensure that any program that involves explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, and/or proselytization) is separate and distinct from the program that receives direct Buncombe County Funds, and that the distinction is completely clear to the beneficiary (or any potential future beneficiary). Further, recipients of Buncombe County funds shall not discriminate against any beneficiaries (or any potential future beneficiaries) of the goods, services, or disbursements funded by this Contract on the basis of any beneficiaries’ (or potential future beneficiaries’) religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, or national origin.

15. Legal Proceedings: Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Asheville, Buncombe County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this Contract. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Buncombe County, North Carolina. This Contract and any claims, disputes, or other matter arising thereunder shall be governed by the laws of the State of North Carolina.

16. Non-Waiver: The waiver by either party of a breach or violation of any provision or paragraph of this Contract shall not operate as, or be considered to be, a waiver of any subsequent breach of the same or other provision or paragraph herein.

{Signature Pages Follow}

NOW THEREFORE, the parties hereby make, agree, and execute this Contract by the below signatures of duly authorized officials or agents.

CONTRACTOR

By: 
(Signature)

Dr. Adrian N Carter
(Printed Name)

CEO AND PRINCIPAL CONSULTANT
(Title)

07/26/2023
(Date)

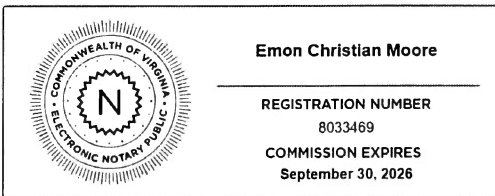
STATE OF Virginia
COUNTY OF Prince William

I, Emon Christian Moore, a Notary Public of the county and State aforesaid, do hereby certify that Dr. Adrian N Carter personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 26th day of July, 2023

My commission expires: 09/30/2026


Notary Public



Notarized online using audio-video communication

BUNCOMBE COUNTY

By: *Dakisha R. Wesley*
(Signature)

Dakisha R. Wesley
(Printed Name)

Assistant County Manager
(Title)

July 27, 2023
(Date)

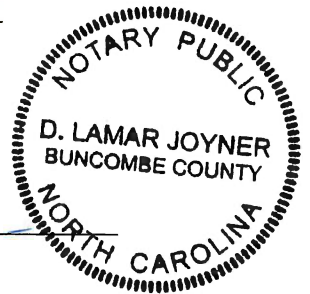
STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, D. LAMAR JOYNER, a Notary Public of the county and State aforesaid, do hereby certify that DAKISHA R. WESLEY personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 27TH day of July, 2023

My commission expires: 8-30-2023

D. Lamar Joyner
Notary Public



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

Mason V. Scott
Buncombe County Finance Director

ATTACHMENT A: SCOPE OF WORK

Contractor Shall:

- Conduct audit services which are comprehensive and must include compliance, operational and performance components of the internal and external programs of the City of Asheville, County of Buncombe, as evidenced by departments which are charged with harm reduction, Equal Opportunity, diversity, equity, and inclusion, which shall include examination of programs and policies by its grantees, awardees, subrecipients, and designees.
- Design an audit that confirms whether the City of Asheville and Buncombe County are in compliance with federal and state laws, regulatory bodies, codes of conduct, court orders and consent decrees. This audit would provide guarantees that the cessation of harm to the African American community has actually occurred. This would include the verification of facts and data that are publicly disclosed.
- Design the audit to reduce barriers for historically underrepresented populations to participate. The Contractor should consider the intersectionality of race and gender disparities in the aforementioned focus areas.
- Conduct a complete review of the City and Asheville and the County's departments which are charged with harm reduction, Equal Opportunity, diversity, equity, and inclusion, and perform research by engagement with County and City departments, personnel and officials through appropriate modalities.
- Conduct its review and research by planning and conducting engagement with appropriate city/county partner and community stakeholders.
- Schedule regular audit progress meetings with contract administrator to facilitate discussions of activities and/or issues that may affect project costs or schedule.
- Provide continuous communications and milestone reporting with County and City government and Community Reparations Commission.
- Complete a report and presentation of audit findings organized with the following impact focus areas as well as an intersectional category:
 - Criminal Justice
 - Economic Development
 - Education
 - Health & Wellness
 - Housing
 - Overarching & Emerging

ATTACHMENT B: PAYMENT SCHEDULE

ITEM		COST	PAYMENT DUE
Deliverable / Activity (Fixed)			
1	Onsite Project Kick Off & Goal Setting Meeting (s)	\$ 2,500.00	Upon Completion of Activity
2	Communication Plan	\$ 2,500.00	Upon County Acceptance
3	Virtual Department Cohort Meetings	\$ 7,000.00	Upon Completion of Activity
4	Research & Analysis Per Focus Area (including supplies/materials/software/database)	\$ 70,000.00	Upon Completion of Activity
5	Preliminary Findings Report & Presentation	\$ 21,000.00	Upon County Acceptance & Completion of Activity
6	Presentation of Preliminary Findings to Community Reparations Commission	\$ 9,000.00	Upon Completion of Activity
7	Draft Final Report on Findings & Recommendations	\$ 25,000.00	Upon County Acceptance
8	Completion of Final Report on Findings & Recommendations / Presentation of Final Report to Board of County Commissioners, Asheville City Council and CRC (if applicable)	<u>\$ 25,000.00</u>	Upon County Acceptance & Completion of Activity
	Subtotal	<u>\$ 162,000.00</u>	
Additional / Auxiliary Services (Itemized)			
9	Travel Expenses	\$ 8,000.00	Upon Review & Acceptance of Invoice
10	Specialized Consultation	\$ 4,375.00	Upon Review & Acceptance of Invoice
	Subtotal	<u>\$ 12,375.00</u>	
	Total – Not to Exceed	<u>\$ 174,375.00</u>	

Notes:			
¹ Materials/Supplies and Software/Database Access is included in the Research & Analysis Per Focus Area.			
² The cost of the Presentation of Final Report on Findings & Recommendations to Board of County Commissioners, Asheville City Council and CRC is included in our overall services.			
³ Vendor and County Department shall abide by the Buncombe County purchasing processes & procedures with regards to invoicing and remittance of payment. [PLEASE CROSS REFERENCE THIS TO SECTION OF AGREEMENT]			