

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

Contract ID:
Fiscal Year: 2019
Project: Renewable Energy Plan
Supplier: Cadmus Group

THIS AGREEMENT is entered into this 15th day of October, 2018 by and between Buncombe County, a body politic and corporate of the State of North Carolina (hereinafter referred to as the "County"), and The Cadmus Group (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 October 15, 2018 and shall terminate on June 30, 2019.
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. 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:

Jing Hoffmann
Deputy Director of Contracts
100 5th Ave. STE 100
Waltham, MA 02451
(617) 673-7170
Jing.hoffmann@cadmusgroup.com

b. Contract Administrator for the County:

Jeremiah P. LeRoy
Sustainability Officer
200 College St
Asheville, NC 28801
Office: (828) 250-496
Mobile: (828) 545-2918
Jeremiah.leroy@buncombecounty.org

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

5. 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.

6. 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.

7. 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. **Medical Professional Liability.** RESERVE
- vii. **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.
- viii. **Cyber Liability.** Providing third party coverage to include security, privacy, regulatory action, event management for all affected persons whose confidential information was compromised or was reasonably likely to have been compromised, cyber extortion, and crisis fund insurance. This policy shall carry a minimum limit of \$7,000,000. If policy is of a claims made type, such coverage shall be for a minimum of 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.

- ix. **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.
- i. **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.

8. 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.

9. 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** Either party may terminate this Contract for any reason, or for no reason, immediately by giving the other party written notice.

10. Scope of Work:

County shall:

- a. Provide access to all Buncombe County owned land and buildings located in Buncombe County, North Carolina.
- b. Make payment to the Contractor for services purchased as described in this Contract.

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.

11. Payment:

- a. Payment from the County to the Contractor under the terms of this Contract will be up to a maximum of \$100,000 (One Hundred Thousand and 00/100 dollars). Fiscal management of the direct provision of service will be the responsibility of the Contractor.
- b. The Contractor will be paid based on the completion of each task 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 other costs or expenses incurred by Contractor in connection with the performance of this Agreement and in no event shall County reimburse Contractor for any such costs or expenses.
- d. Payment by County under this Contract shall be subject to apportionment in the County's budget for this Contract. The failure or refusal of the Board of Commissioners of Buncombe County to apportion funds for payment to Contractor under this Contract shall not constitute breach and shall entitle County to immediate termination of the Contract.

12. 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.

13. 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.

14. 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: Jing Hoffmann
(Signature)

Jing Hoffmann
(Printed Name)

Deputy Director of Contracts
(Title)

November 28, 2018
(Date)

STATE OF Massachusetts
COUNTY OF Middlesex

I, Chudi Ekpundai, a Notary Public of the county and State aforesaid, do hereby certify that Jing Hoffmann personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 28th day of November, 2018

My commission expires: 9/4/2020

Chudi Ekpundai
Notary Public

BUNCOMBE COUNTY

By: George A. Wood
(Signature)

George A Wood
(Printed Name)

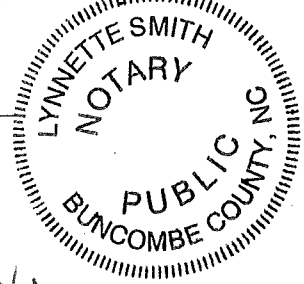
Buncombe County Manager
(Title)

12/3/2018
(Date)

STATE OF North Carolina
COUNTY OF Buncombe

I, Lynette Smith, a Notary Public of the county and State aforesaid, do hereby certify that George A. Wood personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 3rd day of December, 2018



My commission expires: 5/18/2019

Lynette Smith
Notary Public

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

[Signature]
Buncombe County Finance Director

ATTACHMENT A: SCOPE OF WORK

The attached proposal, submitted by The Cadmus Group to Buncombe County, shall serve as the scope of work for this agreement. The proposal outlines the project approach and services to be provided in order to complete the objective of providing Buncombe County with a reasonable and actionable plan to reach its 100% renewable energy goals.