

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is made and entered into by and between the North Carolina Department of Commerce, Division of Employment Security (“DES”), and **Chatham County** (“Agency”) in order for DES to provide on-line access to claims, wage history information, and employer reference data (collectively the “Confidential Information”) in the possession of DES needed by the Agency's employees in the performance of their public duties as set out in Exhibit A attached hereto and incorporated herein by reference. “Confidential Information” includes originals and copies of the information, in whatever form, whether it be print, electronic, tape, or otherwise, as well as derivative records and reports created from the information, unless in the form of aggregated information, containing no individual or employer identifying data.

I. PERFORMANCE:

A. AGENCY AGREES THAT IT SHALL:

- (1) Observe the confidentiality provisions of all governing state and federal statutes and administrative rules and regulations for the protection of Confidential Information, in particular N.C. Gen. Stat. § 96-4(x) and subpart B of 20 C.F.R. Part 603. Access to the Confidential Information will be provided only to Agency employees who are required to perform activity required by this Agreement and who need to access it for purposes listed in this Agreement, and who have executed a Confidentiality Acknowledgment (“Acknowledgment”) in the form of the attached Attachment B (“Authorized Personnel”). The executed Acknowledgments shall be maintained by the Agency in one central location on the premises of the Agency and such Acknowledgments shall be available for inspection and review by DES during the Agency's regular business hours.
- (2) Observe security clearance procedures as documented for departments of the State of North Carolina by the Department of Information Technology or as explained by DES personnel, and consult with appropriate DES personnel regarding any client information needed with respect to security clearance procedures.
- (3) Implement safeguards and precautions to ensure that only Authorized Personnel have access to the Confidential Information.
- (4) Ensure that the request or usage of the Confidential Information provided by DES shall be used by Authorized Personnel only for the purposes in the MOU, and that the source of the Confidential Information shall not be disclosed except for purposes consistent with this MOU, nor shall the

Confidential Information be transferred to anyone other than to Authorized Personnel.

- (5) Protect the confidentiality of the information by utilizing appropriate firewalls and encryptions.
- (6) Instruct all Authorized Personnel with access to Confidential Information that they are prohibited from printing the information in hard copy form unless a printed copy is necessary for the performance of the employee's public duties as defined in 20 C.F.R. § 603.5(e). Disposal of all printed copies, in the manner described in Section I.A.(15) herein, must occur after the purpose for which the copy was made has been served.
- (7) Instruct all Authorized Personnel with access to Confidential Information that they are prohibited from storing the Confidential Information locally unless storing the information is necessary for the performance of the Authorized Personnel's public duties as defined in 20 C.F.R. § 603.5(e). Disposal of all stored Confidential Information, in the manner described in Section I.A.(15) herein, must occur after the purpose for which the information was stored has been served.
- (8) Require that Confidential Information that will be stored locally will only be stored on a desktop or encrypted laptop, and not on any mobile device such as a mobile telephone.
- (9) Take precautions to ensure that only Authorized Personnel have access to the computer systems in which Confidential Information is accessed or stored.
- (10) Require the use of separate user IDs and passwords for Authorized Personnel who need access to the Confidential Information. DES will provide the Agency with an Account Number and PIN in order to establish an Agency account through DES's website. The first Agency employee to create an account will be the Administrator. The Administrator will provide other employees needing access to the Confidential Information with the Account Number and PIN after the employee has executed an Acknowledgment. After the employee enters all necessary information, the Administrator will approve that Authorized Personnel's access.
- (11) Instruct all Authorized Personnel that need access to the Confidential Information to perform their job duties to only access the Confidential Information using the on-line application through DES's website.
- (12) Instruct all Authorized Personnel with access to Confidential Information and to any records created therefrom of its confidential nature; of the safeguards required to protect the information; and of the penalties for

noncompliance contained in N.C. Gen. Stat. § 96-4(x)(3).

- (13) Require the Agency's Administrator to monitor regularly Authorized Personnel to determine whether the job responsibilities of those employees continue to require access. The Administrator must immediately remove access for any Authorized Personnel who is determined to no longer need it and take all necessary steps to ensure that any records which are in the possession or control of such Authorized Personnel are timely destroyed as provided in this MOU.
- (14) Report, in the event any violations or suspected violations of this MOU pertaining to the use, duplication, disclosure, or redisclosure of Confidential Information obtained under this MOU are discovered by the Agency, such violations to the MOU Issues contact listed in Section I. B.(3) immediately where possible, and in all cases within two (2) working days.
- (15) Securely dispose of all records containing Confidential Information obtained by the Agency under this MOU after the purpose for which the information was made available, as recognized by this MOU, has been served. Disposal shall mean the return of the information to DES, destruction of the Confidential Information as directed by DES, deletion of personal identifiers in lieu of destruction, or in any manner otherwise authorized by DES. In any case, the Agency shall dispose of the Confidential Information within ten (10) days after the termination or expiration of this MOU.
- (16) Cooperate with DES staff as necessary to ensure continued access to the Confidential Information during any modernization, updating, or upgrading of DES's computer system. The Agency acknowledges and understands that DES does not guarantee uninterrupted access to the Confidential Information at any time during the duration of this MOU.
- (17) Notify DES, in writing, of its desire to renew this MOU within ninety (90) days prior to the expiration date of this MOU.
- (18) Provide to DES the name of the Agency's Administrator to whom all notices are to be sent.

B. DES AGREES THAT IT SHALL:

- (1) Allow the Agency on-line access through DES's website at des.nc.gov to the Confidential Information, if any, as described below:

Employer Name and Address Inquiry: Provides a business name, trade name, Federal Employer Identification Number ("FEIN"), physical and mailing address, employer telephone number, and contact name, title,

telephone number, and email address, and home office account number, if any.

Claimant Wage History Inquiry: Provides the employer name, employer account number, and information on an individual's wage history for the past eight quarters, if any.

Claimant Benefit Payment History Inquiry: Provides information on the payment of unemployment insurance benefits to an individual during a benefit year, if any.

- (2) Provide training to designated Agency representatives with respect to DES security clearance procedures.
- (3) Receive notices and inquiries submitted to DES as follows:

Technical Issues: DES Employer Call Center ("ECC")
Local: 919-289-5424
Toll Free: 866-278-3822

MOU Issues: Sharon J. Martin, Deputy Chief Counsel
Chynna T. Smith, Attorney
North Carolina Department of Commerce
Division of Employment Security
Legal Services Section
P. O. Box 25903
Raleigh, NC 27611-5903
Phone: 984-236-5987
Fax: 919-733-8745
email: Sharon.Martin@commerce.nc.gov
email: Chynna.Smith@commerce.nc.gov

II. AUDITS:

AGENCY AGREES THAT IT SHALL:

- (1) Allow DES to perform on-site inspections and audits to ensure that the confidentiality requirements of this MOU and all applicable laws and regulations, including applicable amendments, are being satisfied. DES will provide appropriate advance notice of such audits or inspections, unless DES has reason to believe that a breach of this MOU is occurring or is imminent. Such audits and inspections will be designed to cause only minimal disruption to the Agency's operation.
- (2) Implement, within a reasonable time, all recommendations made pursuant to any on-site inspection or audit authorized by this section. This section should not be read to interfere with the authorization, as stated in Section

V., allowing DES to suspend or terminate this MOU if a breach is discovered or suspected.

- (3) Allow access to the records as they relate to this MOU by the North Carolina State Auditor's Office in accordance with N.C. Gen. Stat. § 147-64.7 and to any other State or Federal entity authorized to conduct audits with respect to activity performed pursuant to this MOU.

III. RECORDS USAGE, DUPLICATION, AND REDISCLOSURE RESTRICTIONS:

The Agency agrees to the following limitations on the access to, and disclosure and use of, the Confidential Information provided by DES:

- (1) Any Confidential Information provided by DES may not be duplicated or disseminated to any other parties without prior written permission of DES. Such permission shall not be given unless the redisclosure is permitted by law and essential to performance of this MOU.
- (2) The Agency shall not disclose said Confidential Information in any manner that would reveal the identity of an individual or employer or take other action that may adversely affect an identified individual or employer. Notwithstanding this paragraph, DES authorizes the Agency to redisclose Confidential Information, including but not limited to that which identifies individuals or employers, and take other action that may adversely affect identified individuals or employers in accordance with 20 C.F.R. § 603.9(c)(1)(i)-(iii).
- (3) N.C. Gen. Stat. § 96-4(x) provides that records, reports, and information obtained from individuals, employers, employing units, and government units is confidential. The Agency shall not release any Confidential Information obtained from DES under this MOU in response to a request made under Chapter 132 of the North Carolina General Statutes or to a request made under any other law, regulation, or ordinance addressing public access to government records. The Agency shall inform DES's contact person and shall notify the Chief Counsel for DES by telephone at (984) 236-5987 within twenty-four (24) hours of receipt by the Agency of service of a subpoena, court order, or other document in any action seeking access to the information obtained from DES and will cooperate with legal counsel for DES in any challenge or appeal from such request, subpoena, court order, or other document.

IV. REIMBURSEMENT:

The Agency agrees to reimburse DES for the cost incurred by DES in conducting on-site audits or inspections to ensure that the confidentiality requirements, the use for which the Confidential Information is being accessed under this MOU, and all applicable laws and

regulations, including applicable amendments, are being satisfied.

V. TERMINATION AND MODIFICATION:

A. The Parties recognize that changes in governing State or Federal laws or regulations may render performance hereunder illegal, void, impracticable, or impossible, thereby requiring termination of the MOU. Either Party may, with or without cause, terminate this MOU immediately by giving written notice. In addition, DES may make a unilateral suspension and/or termination of this MOU that would be made effective immediately upon written notice if:

- (1) DES determines that there has been an unauthorized use, disclosure, or redisclosure of Confidential Information obtained under this MOU;
- (2) DES determines that the Agency has violated or failed to follow any term of this MOU, including payment provisions; or
- (3) DES has reason to believe that the Agency or any of its personnel has breached this MOU's terms relating to the use and security of Confidential Information obtained under this MOU, until such time as an investigation is completed with a determination as to whether a breach has occurred.

If the MOU is suspended, further disclosure of Confidential Information will be prohibited until DES is satisfied that corrective action has been taken and no further breach will occur. If satisfactory corrective action is not taken within thirty (30) days, the MOU will be terminated. DES is not obligated to provide the Agency with an opportunity to take corrective action and may terminate this MOU at any time.

B. Cancellation of this MOU shall not limit DES from pursuing penalties provided under State law for the unauthorized disclosure of Confidential Information. DES shall undertake any other action under the MOU, or under any State or Federal law, to enforce this MOU and secure satisfactory corrective action or surrender of the information, and shall take other remedial actions permitted under State or Federal law to effect adherence to the requirements of this MOU and subpart B of 20 C.F.R. Part 603, including seeking damages, penalties, and restitution as permitted under such law for all costs incurred by DES in pursuing any breach of this MOU and enforcement of the terms of this MOU.

C. All provisions of this MOU governing confidentiality and non-disclosure of data obtained under this MOU shall survive termination of this MOU.

D. This MOU is subject to modification upon written amendment signed by an authorized representative of each Party.

VI. TERM OF THE MOU:

This MOU shall be effective for the period beginning **the 1st day of April, 2024 and ending the 31st day of March, 2027**, unless otherwise terminated at an earlier date as provided herein. Upon written request of the Agency, this MOU may be extended for an additional two (2) years.

VII. MISCELLANEOUS:

- A. The headings that appear in this MOU are inserted for convenience only and do not limit or extend the scope.
- B. This MOU, together with its Attachments, constitute the entire understanding of the Parties with respect to the subject matter of this MOU, and all agreements, understandings, and representations made prior to the effective date of this MOU are canceled in their entirety.
- C. This MOU is made under, and shall be governed and construed in accordance with, the laws of the State of North Carolina. The place of this MOU, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation, and enforcement shall be determined. The Agency agrees and submits, solely for matters relating to this MOU, to the jurisdiction of the State and/or Federal courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.
- D. An electronic copy of this MOU, and an electronic copy of any signature appearing on this MOU, shall be treated as an original.
- E. Any written or oral request from the Agency received by DES for information which is accessible through this MOU but for whatever reason the Agency has chosen not to access in that manner, shall not be honored and shall be returned to the contact person.
- F. DES, in no way, guarantees the accuracy of information provided to the Agency.
- G. The Agency will not take any official action on the basis of the data received from DES without independently verifying the accuracy of the data received.

[SIGNATURES ON THE NEXT PAGE]

VIII. SIGNATURES:

IN WITNESS HERETO, the PARTIES have executed this MOU by their duly authorized officials. This MOU is executed under seal for purposes of any statute of limitations.

Dan LaMontagne, County Manager
Chatham County (Agency)

Date

M. Antwon Keith, Assistant Secretary
North Carolina Department of Commerce
Division of Employment Security (DES)

Date

EXHIBIT A



COUNTY COMMISSIONERS

Mike Dasher, Chair
Karen Howard, Vice Chair
Franklin Gomez Flores
David Delaney
Katie Kenlan

COUNTY MANAGER: Dan LaMontagne

February 5, 2024

Sharon Martin, Deputy Chief Counsel for DES
Sent via email: Sharon.martin@commerce.nc.gov

Dear Ms. Martin:

On behalf of Jenny Williams, Chatham County Tax Administrator, I am responding to inform you that the Tax Department (the "Department") will need to continue having access to DES confidential information. Ms. Williams will be the contact person between the office and DES. The contact information is as follows: Mailing address: Post Office Box 697, Pittsboro, North Carolina 27312; Contact telephone 919-545-8404; and email is jenny.williams@chathamcountync.gov.

The information that the Department will need to access will be the name and address of the individual's employer and the wages reportedly paid to an individual, unemployment benefits for an individual as well as any other information that may be available.

Information received from the DES database will be used to verify employment of taxpayers owing delinquent property taxes. The information will also be used to verify qualifications for exemption for individuals applying for exemption under NCGS §105-277.1.

NCGS §105-368 authorizes the tax collector to collect delinquent taxes through the use of wage garnishment. Contracting with DES allows the staff in the Department to verify the income and wages of delinquent taxpayers.

The following have access to the database:

1. Jenny Williams, Tax Administrator, jenleewill, jenny.williams@chathamcountync.gov
2. Danny Darden, Delinquent Tax Collector, dandarden, danny.darden@chathamcountync.gov

The following are new individuals expected to be added as users:

3. Angela McMahan, Tax Paralegal, angela.mcmahan@chathamcountync.gov
4. Laretha Clark, Tax Paralegal, Laretha.clark@chathamcountync.gov
5. Tracy Lee, Assistant Tax Administrator, tracy.lee@chathamcountync.gov
6. Rebecca McIver, Collections Supervisor, Rebecca.mciver@chathamcountync.gov

Jenny Williams will be the Administrator for the account with DES ID Number 9300055.

The office is located in the government annex at 12 East Street, Pittsboro, North Carolina. The staff does not share computers. Every employee is assigned a username and password. No employee can sign on to a county computer without that information and multi-factor authentication is required. If an employee is searching information from the DES site and someone from the public approaches the employee's workstation or if the employee must step away from the workstation but has not left the office the computer screen is minimized to protect the information shown on the computer. The MIS department maintains a firewall protection for all county computers. The Department has established a privacy policy that incorporates the county's policy regarding technology use and the

protection of personal and confidential information. If you would like a copy of the policy, the Tax Administrator will provide a copy for your review.

Pursuant to this Agreement, the Department expressly agrees to protect the confidential information and to restrict its use to only those purposes identified in this Agreement. The Department acknowledges that its personnel is subject to (i) the provisions of all relevant state and federal laws, including without limitation NCGS §96-4(x) and subpart B of 20 C.F.R. Part 603, governing protection of confidential information, including criminal penalties for unauthorized disclosure, and (ii) has been instructed regarding the nature of the Confidential Information and required safeguarding measures to which personnel must adhere. The Department agrees to adhere to the requirements and procedures of the Agreement with respect to this activity and will report any breach to the Administrator fully and promptly.

Should you need any further information, please do not hesitate to contact us. Thank you.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'Dan LaMontagne', with a long horizontal flourish extending to the right.

Dan LaMontagne
County Manager

CC: Jenny Williams

EXHIBIT B

Confidentiality Acknowledgment

The Chatham County (“Agency”) and the North Carolina Department of Commerce, Division of Employment Security (“DES”), entered into a Memorandum of Understanding (“MOU”) for DES to provide the Agency on-line access to certain confidential claims, wage history information, and employer reference data under DES’s control, as specified in the MOU (the “Confidential Information”).

Pursuant to the MOU, the Agency has expressly agreed to protect the confidentiality of the Confidential Information and to restrict its use to only those purposes identified in the MOU. The undersigned Employee acknowledges that he or she: (i) is part of the Agency personnel having access to the disclosed Confidential Information; (ii) is subject to the provisions of the MOU governing protection of Confidential Information, including any sanctions specified in State law for unauthorized disclosure of Confidential Information; (iii) has received, read, and understands the provisions of the MOU governing protection of Confidential Information; and (iv) has been instructed about confidentiality requirements, the requirements of subpart B of 20 C.F.R. Part 603, and the sanctions specified in State law for unauthorized disclosure of information. The undersigned Employee agrees to adhere to the requirements and procedures of the MOU with respect to his or her activity and will report any breach to his or her Supervisor fully and promptly.

By signing this Acknowledgment, the undersigned Supervisor acknowledges that the Employee has been instructed as stated above, and will adhere to DES’s confidentiality requirements and procedures which are consistent with subpart B of 20 C.F.R. Part 603 and the MOU, and agrees to report any infraction to DES fully and promptly.

EMPLOYEE NAME

Signature _____ Date _____

Printed Name _____ Title _____

SUPERVISOR

Signature _____ Date _____

Printed Name _____ Title _____