

**THIS CONTRACT AMENDMENT** is made and entered into this 1<sup>st</sup> day of July, 2020 by and between the **COUNTY OF DURHAM** (hereinafter referred to as “**County**”) and **NIGHTHAWK SECURITY AND CONSULTING, LLC and NIGHTHAWK COMPANY POLICE, LLC**, (hereinafter referred to as “**Contractor**”).

**WITNESSETH:**

THAT WHEREAS, the County and Contractor entered into a contract dated August 21, 2017, for the provision of security services and security consulting, (hereinafter the “Original Agreement”); and

WHEREAS, the County and Contractor amended the Original Agreement (amendment #1) on 8 March 2018 increasing the contract by \$111,356.38 to \$1,730,732.88, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below; and

WHEREAS, the County and Contractor amended the Original Agreement for a second time (amendment #2) on July 1, 2018 decreasing the contract by \$5,791.03 to \$1,724,941.85 for the provision of extending the contract term through June 30, 2019 and for a reduction in security post, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below; and

WHEREAS, the County and Contractor amended the Original Agreement (amendment #3) on 1 July 2018 increasing the contract by \$183,499.91 to \$1,908,441.76, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below; and

WHEREAS, the County and Contractor amended the Original Agreement (amendment #4) on 1 January 2020 provided funding of \$26,249.60 for the Nehemiah Christian Center post by moving costs from temporarily closed library positions, thus not increasing the contract, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements made herein, the parties agree to amend the Original Agreement as follows:

1. A Youth Home security post is established at a cost increase of \$118,183.04.
2. The Youth Home security post shall be staffed with an Unarmed Security Officer (USO) that is trained and equipped with a Taser. This will provide an unarmed uniformed officer presence at the main lobby to mitigate potential aggressive behavior by visitors and/or arriving detainees. Unlike other unarmed officer posts, this post will require the carrying of a Taser to provide a means to subdue an aggressive person should that become necessary. This additional requirement increases the hourly rate for this USO position from \$18.73-hr. to \$19.75-hr.
3. The compensation paid to Contractor shall be an amount not to exceed \$2,028,225.04.
4. **INDEMNIFICATION.** To the fullest extent permitted by law, COUNTY hereby reserves the right to recover legal expenses including attorney fees, litigation expenses and court costs as well as actual damages or losses suffered by COUNTY, if CONTRACTOR is found to be a proximate cause of damages or losses suffered by COUNTY, resulting from CONTRACTOR’s performance during the execution of this Contract.

5. **SECURITY BACKGROUND CHECKS.** The Contractor is responsible for requesting and paying for criminal history checks on all individuals providing services under this contract who will be obtaining COUNTY identification badges and allowed unescorted access to COUNTY facilities. Background checks can be provided by any vendor, or from a North Carolina State agency, providing that the criminal history check is done nationwide. The Sheriff's Office will conduct background investigations for those Contractor employees who will be working at the Courthouse or Detention Center. A criminal history will not automatically disqualify a Contractor employee from employment on a COUNTY contract unless explicitly mandated by law.

The Contractor will send the results of the background checks, prior to commencing work at Durham County Government, to their County point of contact who will provide them to the Durham County Security Manager. The Security Manager will individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in Durham County buildings. The Security Manager will consult the Legal Office, as needed, on any negative determinations. The Security Manager will notify the Contractor's County point of contact of the results of the review. A Contractor can appeal a negative determination by the Security Manager to the County Manager or his designee for final disposition. Appeals need to be submitted in writing to the contract point of contact within 30 days of notice of a decision to remove or deny an individual from working the County contract due to adverse information in the background check.

This information shall be updated annually by the Contractor, 90 days prior to the renewal or extension of the contract and submitted to their County point of contact who will provide them to the Durham County Security Manager. Personnel without a currently approved background check will have their access to those buildings disabled.

Additional background screening may be necessary at specific COUNTY buildings. The Contractor shall provide names of all individuals in the Contractor communications log and to the COUNTY Representative. This information will be reviewed annually.

For those Contractor employees who will be working at the Courthouse or Detention Center, the Sheriff's Office will make the security determination. The Contractor will provide the results of their background check to the Major for Support Services who will conduct an additional investigation and then individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in the Courthouse or Detention Facility. A Contractor can appeal a negative determination to the Chief Deputy for final disposition. Appeals need to be submitted in writing to the Chief Deputy within 30 days of notice of a decision to remove or deny an individual from working the contract due to adverse information in the background check. While an appeal is pending, the employee will not be allowed access to the Courthouse or Detention Facility.

This information will be updated by the Contractor and submitted to the Sheriff's Office annually, 90 days prior to the renewal or extension of the contract. Personnel without a currently approved background check will have their access to those buildings restricted.

6. By execution hereof, the person signing for Contractor below certifies that he/she has read this Contract Amendment and that he/she is duly authorized to execute this contract on behalf of the Contractor.
7. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this Amendment. In the event that there is a conflict between the Original Agreement and this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, the parties have expressed their agreement to these terms by causing this Contract Amendment to be executed by their duly authorized office or agent. This Contract Amendment shall be effective as of the date herein.

**COUNTY OF DURHAM**

**CONTRACTOR**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Print Name/Title:** \_\_\_\_\_

**Print Name/Title:** \_\_\_\_\_

**Date of Signature:** \_\_\_\_\_

**Date of Signature:** \_\_\_\_\_

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

\_\_\_\_\_  
**Susan Tezai, Durham County Chief Financial Officer**