

**NORTH CAROLINA  
DURHAM COUNTY**

**SERVICE CONTRACT**

**THIS CONTRACT** is made, and entered into this the 1<sup>st</sup> day of August, 2026 (the “Effective Date”), by and between the **SHERIFF OF DURHAM COUNTY**, a constitutional officer of the State of North Carolina, (hereinafter referred to as “SHERIFF”), and **TKC MANAGEMENT SERVICES** a Corporation, Limited Liability Company, Individual, or other Entity duly authorized to do business in the state of North Carolina, (hereinafter referred to as “CONTRACTOR”).

For and in consideration of mutual promises to each as herein after set forth, the parties hereto do mutually agree as follows:

- 1. SCOPE OF SERVICES.** CONTRACTOR hereby agrees to provide the services and/or materials under this contract pursuant to the provisions and specifications identified in Exhibit A and Exhibit B (hereinafter collectively referred to as “Services”) for the Durham County Detention Center (the “Facility”). Exhibits A and B are hereby incorporated herein and made a part of this contract. In the case of a conflict between this base contract and any attachment, the terms of this base contract shall control. Time is of the essence with respect to all provisions of this contract that specify a time for performance.

The SHERIFF will perform on-going contract monitoring to ensure full compliance with the terms of this contract. CONTRACTOR agrees to reasonably cooperate with the SHERIFF in its monitoring process and provide documentation and/or information reasonably requested during the term of this Agreement for the purpose of monitoring the services provided by CONTRACTOR.

- 2. EFFECTIVE DATE AND TERM OF CONTRACT.** The “effective date” of this Contract shall be the date first set forth above in the preamble to this Contract, irrespective of the date of execution by the parties. The first date written above is **August 1, 2026**. All renewal or non-renewal periods or deadlines stated in this Contract, if any, shall be calculated based on the “effective date” indicated above.

This Agreement shall commence on the effective date and shall continue for a period of five (5) years. The five-year term is from August 1, 2026 to July 30, 2031 unless sooner terminated as provided herein. Sheriff and Contractor must enter into an annual services contract for each year of the five-year term.

- 3. PAYMENT TO CONTRACTOR.** CONTRACTOR shall be entitled to receive the following compensation for services performed pursuant to this Contractor:

**3(a).** CONTRACTOR shall receive from SHERIFF an amount not to exceed One million three hundred seventy-nine thousand dollars and no cents (\$1,379,000) payable in twelve monthly installments of not less than 1/12th of the approved annual Budget. . This amount includes Contractor’s management fee and projected expenses as outlined in Exhibit B, Fiscal Year 26/27 Maintenance Services Budget. The total annual amount payable to Contractor shall be adjusted annually in accordance with the approved annual Budget and the applicable fees set forth in Exhibit C. Contractor shall submit the invoice for the monthly installment by the tenth day after the last day of the previous month. If the monthly expenses incurred by Contractor exceed the approved Budget, unless otherwise specified, Contractor shall submit an itemized invoice to Sheriff by the tenth day after the end of the month in which the services were performed. SHERIFF agrees to pay CONTRACTOR at the rates specified for Services performed to the satisfaction of the SHERIFF, in accordance with this contract, and incorporated Exhibits.

A Funds Reservation number may be assigned to encumber the funds associated with this contract and must appear on all invoices and correspondence mailed to SHERIFF. Please send and attention payment invoices to

DCSO Fiscal Services via email: [fiscalservices@durhamsheriff.org](mailto:fiscalservices@durhamsheriff.org). Payment will be processed promptly upon receipt and approval of the invoice by SHERIFF.

**3(b)** In addition to the compensation described in Paragraph 3(a), CONTRACTOR shall be entitled to receive, and SHERIFF shall pay to CONTRACTOR, reasonable additional fees for services performed by CONTRACTOR on behalf of SHERIFF that are not listed or specifically required in this Contract or are not reasonably contemplated by this Contract. Such additional fees shall be due and payable to CONTRACTOR for such of the foregoing services that would not normally and customarily be included in the services CONTRACTOR would perform for the owner of comparable property. Such fees shall be in accordance with CONTRACTOR's standard fees or if not listed shall be an amount equal to the sum of CONTRACTOR's actual costs in performing such additional services. Any additional services shall be included in the monthly invoice for payment with a detailed description and any supporting documentation of the expense.

Unless exigent circumstances or an emergency, Contractor shall discuss and receive approval of any additional services or expenses prior to performing the task. If an exigent circumstance or emergency occurs, Contractor shall inform Sheriff of the exigency or emergency within a reasonable period of time, but no later than 24-hours after the emergency or exigency occurs. After normal business hours, overnight, weekends or holidays, Contractor shall inform the Sheriff's Office Watch Commander of any exigent or emergency issues. In the event of an exigency or emergency, Contractor shall not undertake any repairs that a reasonable person would estimate the repair cost would exceed \$1000.

**3(c)** CONTRACTOR shall establish and maintain in a federally insured bank a separate custodial bank account for CONTRACTOR's working fund (the "Operating Account"), which Operating Account will be subject to the absolute control of CONTRACTOR. CONTRACTOR shall be authorized to draw thereon for any payments to be made by CONTRACTOR pursuant to the terms of the Contract. CONTRACTOR shall make all payments required hereunder in a timely manner provided that (and only if) sufficient funds exist or are deposited in the Operating Account by SHERIFF. To the extent the funds on deposit in the aforesaid bank accounts are not sufficient to pay the above-referenced expenses as and when due, CONTRACTOR shall include the unpaid expense on the monthly invoice with detailed information and supporting documentation.

3(d). Contractor shall submit to Sheriff monthly and annual reconciliations of the Operating Account. Contractor shall submit an annual reconciliation for the fiscal year ending June 30 by July 31. If the annual amount paid for projected expenses is more than the actual amount spent, Contractor shall remit to Sheriff the difference, or the amount overpaid, by August 15 of each year.

**3(e).** The Parties agree and acknowledge that any and all payments described herein are contingent upon prior budgetary approval by the Durham County Board of Commissioners (the Board) for the fiscal year during which services required by this contract are rendered. The Parties agree and acknowledge that if this contract is signed prior to budgetary approval being granted, that SHERIFF may terminate the Contract upon one hundred twenty (120) days prior written notice to CONTRACTOR if the requisite approval is not given, pursuant to Section 8.3 below. As remuneration for the "ramp up" fees that would otherwise be amortized into the Management Fee during the term of this Contract, if CONTRACTOR is terminated prior to the one-year anniversary of the Effective Date, then CONTRACTOR shall receive a one-time payment of twenty-five percent (25%) of the Management Fee that would accrue (but for the termination) during the one-year period commencing on the Effective Date. Such termination fee shall be paid to CONTRACTOR on or before the effective date of termination.

**4. INDEPENDENT CONTRACTOR.** SHERIFF and CONTRACTOR agree that CONTRACTOR is an independent contractor and shall not represent itself as an agent or employee of SHERIFF for any purpose in the performance of CONTRACTOR's duties under this Contract. Accordingly, CONTRACTOR shall be responsible for payment of all federal, state and local taxes applicable to the Contractor with respect to this

Contract as well as business license fees arising out of CONTRACTOR's activities in accordance with this Contract. For purposes of this contract taxes shall include, but not be limited to, Federal and State Income, Social Security and Unemployment Insurance taxes.

CONTRACTOR, as an independent contractor, shall perform the Services required hereunder in a professional manner and in accordance with the standards of applicable professional organizations and licensing agencies.

**5. CONFIDENTIALITY, DATA SECURITY, TRAINING AND NON-DISCLOSURE.** CONTRACTOR acknowledges and agrees that, in the course of its engagement with SHERIFF, CONTRACTOR or its licensors, subcontractors or suppliers in connection with the services to be rendered under this Contract may receive or have access to "confidential information" or "personal identifiable information".

CONTRACTOR or its licensors, contractors or suppliers has obtained or may need to obtain confidential information from the SHERIFF in connection with the provision of services to the SHERIFF or the discussions of such a proposed relationship.

The SHERIFF and CONTRACTOR desire to stipulate and agree that any disclosure of confidential information in connection with the provision of services or the discussion of such a proposed relationship has occurred or will occur under circumstances and conditions that will protect and preserve the confidentiality of the information.

**5.1 DEFINITIONS.** As used in this Contract, the following terms shall have the meanings set forth below:

**Confidential Information.** The term "Confidential Information" shall mean any information, in any medium, whether written, oral or electronic, not generally known in the relevant trade or industry, which falls within any of the following general categories:

- a. Trade Secrets. For purposes of this Contract, trade secrets consist of information of the SHERIFF or CONTRACTOR or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
- b. Highly Restricted Information. CONTRACTOR acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) CONTRACTOR will also comply with any more restrictive instructions or written policies that may be provided by the SHERIFF from time to time to protect the confidentiality of Highly Restricted Information, as defined below:
  1. Information of the SHERIFF or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."
  2. Information relating to criminal investigations conducted by the SHERIFF, and records of criminal intelligence information compiled by the SHERIFF.
  3. Information contained in the SHERIFF's personnel files, as defined by NCGS §153A-98. This consists of all information gathered by the SHERIFF about employees, except for that information which is a matter of public record under North Carolina law.

4. Citizen or employee social security numbers collected by the SHERIFF.
5. Computer security information of the SHERIFF, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
6. Local tax records of the SHERIFF that contained information about a taxpayer's income or receipts.
7. Any attorney/client privileged information disclosed by either party.
8. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.
9. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.
10. Protected Information (PHI), as defined in the Insurance Portability and Accountability Act (HIPAA), and any other information that is designated as confidential under federal or state law.

**Personal Identifiable Information.** The term "Personal Identifiable Information" shall mean information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked to a specific individual.

**5.2 RESTRICTIONS.** CONTRACTOR shall use commercially reasonable efforts to keep the Confidential Information in the strictest confidence, in the manner set forth below:

- a. Not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the SHERIFF in writing.
- b. Not directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an employee, agent, subcontractor or CONTRACTOR of the SHERIFF or CONTRACTOR having a need to know such Confidential Information for purpose or performing work contemplated by this Contract between the SHERIFF and CONTRACTOR. CONTRACTOR shall not directly or intentionally, disclose, divulge, reveal, report or transfer Highly Restricted Information to any third party without the County's prior written consent.
- c. Not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written contracts between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
- d. Not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
- e. Use commercially reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.
- f. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, CONTRACTOR shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information, so long as CONTRACTOR shall not be subject to any liability thereunder.

- g. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the SHERIFF or destroyed upon satisfaction of the purpose of the disclosure of such information.
- h. Restrict employee access to Confidential Information to those employees who have a need to know for purposes of their jobs.
- i. Take all reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract.

**5.3 EXCEPTIONS.** The SHERIFF agrees that CONTRACTOR shall have no obligation with respect to any Confidential Information that CONTRACTOR can establish was:

- a. Already known to CONTRACTOR prior to being disclosed by the SHERIFF;
- b. Or becomes publicly known through no wrongful act of CONTRACTOR;
- c. Rightfully obtained by CONTRACTOR from a third party without similar restriction and without breach hereof;
- d. Used or disclosed by CONTRACTOR with the prior written authorization of the SHERIFF;
- e. Disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, CONTRACTOR shall first give to the other party notice of such requirement or request;
- f. Disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued Subpoena, provided that CONTRACTOR shall take reasonable steps to obtain an agreement or protective order providing that this Agreement will be applicable to all disclosures under the court order or subpoena.

**5.4 REMEDIES.** CONTRACTOR acknowledges that the unauthorized disclosure of the Confidential Information will diminish the value of the SHERIFF's proprietary interests therein. Accordingly, it is agreed that if CONTRACTOR breaches its obligations hereunder, the SHERIFF shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, provided, however, in no event shall CONTRACTOR be liable for punitive or consequential damages. Additionally, in no event shall CONTRACTOR have any liability for any disclosure made pursuant to applicable law, court order, subpoena or other valid legal requirement.

Except for claims for CONTRACTORS's gross negligence, fraud or willful misconduct, and subject to any other limitations set forth in this Contract, in no event shall CONTRACTOR be liable (whether in tort or contract, under statute or otherwise) for any indirect, special, consequential or incidental damages, including without limitation damages for loss of profits, business interruption, loss of information and the like, arising out of its performance or nonperformance of this agreement, even if CONTRACTOR has been advised of the possibility of such damages.

**5.5 DATA SECURITY.** The CONTRACTOR shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations and rules.

The CONTRACTOR shall report a suspected or confirmed security breach to the SHERIFF Department within twenty-four (24) hours after the breach is first discovered, provided that the CONTRACTOR shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered.

If any applicable Federal, State, or local law, regulation, or rule requires the CONTRACTOR to give written notice of a security breach to affected persons, the CONTRACTOR shall bear the cost of the notice.

**5.6 TRAINING AND NON-DISCLOSURE.** Upon request by the SHERIFF, CONTRACTOR agrees to ensure compliance and the security of “confidential information” and “personal identifiable information”, by having its employees, agents and subcontractors take online privacy and security awareness training provided by SHERIFF, by way of an internet link or some other electronic method to be provided by SHERIFF. CONTRACTOR, at the request of SHERIFF, shall execute a non-disclosure agreement if, and when submitted by SHERIFF.

**5.7 PUBLIC RECORDS.** It is expressly understood that as a governmental entity, the SHERIFF is subject to the North Carolina Public Records Act and information related to this contract may be requested pursuant to same. In response to any request for information which has been properly labeled as a Trade Secret or Confidential Information, the SHERIFF will assert that those are exempt as a Trade Secret or Confidential Information under that Act. Proper labeling will include annotating the bottom of any written document (on the cover and each individual page containing such information) or e-mail with the following footer in at least 12-point bold face type “**Confidential Information**”. Any material labeled as Confidential Information constitutes a representation by CONTRACTOR that it has made a reasonable effort in good faith to determine that such material is, in fact, confidential as defined in N.C. Gen. Stat. § 132-1.2. The SHERIFF has no duty or obligation to limit access to information which is not explicitly marked in accordance with this provision.

**6. INDEMNIFICATION.** CONTRACTOR shall indemnify and save harmless the County of Durham, and elected officials from and against all claims, losses, and actual damages arising out of or arising solely as a result of the gross negligence or willful misconduct of CONTRACTOR, or any of its officers, directors, or employees, in connection with this Contract or CONTRACTOR’s services performed pursuant to this Contract; provided, that CONTRACTOR’s indemnity obligation shall be limited to the amount of fees CONTRACTOR actually received from SHERIFF pursuant to this CONTRACT. This indemnification shall survive the termination of this agreement.

SHERIFF shall reimburse CONTRACTOR for all claims, losses and actual damages arising out of or arising solely as a result of the gross negligence or willful misconduct of SHERIFF, or any of its officers, directors or employees, in connection with this Contract, or SHERIFF’s obligations pursuant to this Contract.

**7. INSURANCE.** CONTRACTOR shall procure and maintain for the duration of the contract the following insurance coverage from an insurance company(s) possessing a rating of A-VII or higher from the A.M. Best Company and licensed to do business in North Carolina. All of the policies required of the CONTRACTOR shall contain a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the COUNTY. In the event CONTRACTOR’S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning “waiver of subrogation” this contract shall govern. CONTRACTOR shall advise the COUNTY of any cancellation, non-renewal, or material change in any policy within ten (10) days of notification of such action and provide updated certificates of insurance evidencing renewals within fifteen (15) days of expiration. CONTRACTOR’S insurance shall be primary and any insurance or self-funded liability programs maintained by the COUNTY shall not contribute with respect to the CONTRACTOR’S insurance. COUNTY shall not be listed as an additional insured on any Insurance Policy or Certificate of

Insurance of the CONTRACTOR. In the event CONTRACTOR'S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning "additional insured" this contract shall govern.

**7.1 Commercial General Liability:** Insurance Services Office (ISO) Form CG 00 01 on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than **\$1,000,000** per occurrence and **\$2,000,000** aggregate.

**7.2 Commercial Automobile Liability:** ISO Form CA 00 01 covering any auto with limit not less than **\$1,000,000** per accident for bodily injury and property damage.

**7.3 Worker's Compensation and Employers Liability:** as required by The State of North Carolina, with statutory limits, and Employers Liability Insurance with a limit of no less than **\$1,000,000** per occurrence.

**7.4 Cyber Liability:** when applicable based on scope of work, policy must cover breach costs, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion, network security, and loss at no less than **\$1,000,000** per occurrence.

By requiring insurance herein, the COUNTY does not represent that coverage and limits will necessarily be adequate to protect CONTRACTOR, and such coverage and limits shall not be deemed as a limitation on CONTRACTOR's liability under the indemnities granted to the COUNTY in this Contract. CONTRACTOR shall provide the COUNTY a valid certificate of insurance, in advance of the performance of any work, exhibiting coverage required. CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

The failure of the COUNTY at any time to enforce the insurance provisions, to demand such certificates of insurance, or to identify a deficiency shall not constitute a waiver of those provisions, nor reduce obligations of the CONTRACTOR to maintain such insurance or to meet its obligations under the indemnification provisions. Notwithstanding the foregoing, nothing contained in this section shall be deemed to constitute a waiver of the governmental immunity of the COUNTY, which immunity is hereby reserved to the COUNTY.

SHERIFF shall obtain and pay for usual and customary commercial general liability insurance with respect to the Facility and usual and customary "all risk" property damage insurance covering the structures constituting the Facility for their full replacement value. Prior to the Effective Date, SHERIFF shall provide CONTRACTOR with a certificate of insurance or certificates of insurance evidencing such coverage. All liability insurance policies shall name CONTRACTOR as an additional insured.

## **8. TERMINATION.**

### **8.1 EVENT OF DEFAULT.**

- (a) If SHERIFF defaults in the payment of any compensation owed to CONTRACTOR pursuant to this Contract and such default continues for a period of five (5) days after CONTRACTOR's written notice to SHERIFF describing such default, then CONTRACTOR may terminate this Contract.
- (b) If either SHERIFF or CONTRACTOR defaults in the performance or observance of any covenant, condition or agreement in this Agreement other than the payment to CONTRACTOR of any compensation owed to CONTRACTOR pursuant to this Contract and such default continues for a

period of thirty (30) days after written notice to the other party both declaring and describing such default, then the non-breaching party may terminate this Contract; provided, that if such default is not susceptible to being cured within such thirty (30) day period, then the breaching party shall have such longer period in which to cure such default as may be reasonably necessary so long as it shall have made and shall continue to make diligent, good faith efforts to cure the same.

**8.2 TERMINATION FOR CONVENIENCE.** This Contract may be terminated, without cause, by either party upon one hundred twenty (120) days written notice to the other party, subject to the terms of Section 3(b). This termination notice period shall begin upon receipt of the Notice of Termination.

**8.3 CONTINGENT FUNDING/NON-APPROPRIATIONS.** If, at any time after the execution of this Contract, the required funding for this contract is not approved by the Durham County Board of Commissioners, SHERIFF may terminate this contract within one hundred twenty (120) days, subject to the terms of Section 3(b). SHERIFF shall notify CONTRACTOR of the non-approval and termination within 30 days of the Board's decision.

Termination of this Contract, under either section 8.1, 8.2, or 8.3 shall not form the basis of any claim for loss of anticipated profits by either party.

**9. COUNTY NOT RESPONSIBLE FOR EXPENSES.** SHERIFF shall not be liable to CONTRACTOR for any expenses paid or incurred by CONTRACTOR, unless otherwise agreed in writing or set forth in the Budget. CONTRACTOR shall provide the necessary labor, security, permits and safety measures required to provide Services hereunder.

**10. EQUIPMENT.** CONTRACTOR shall supply, at its sole expense, except as set forth in the Budget or otherwise agreed to in writing by SHERIFF, all equipment, tools, materials, and/or supplies required to provide Services hereunder, unless otherwise agreed in writing.

**11. COMPLIANCE WITH LAWS.** CONTRACTOR shall abide by all statutes, rules, regulations, laws, and executive orders Federal, State and Local as they relate to, but are not limited to, (i) services in general, (ii) payment of employees, subcontractors and agents, (iii) the Fair Labor Standards Act and (iv) the Wage and Hour Division. In the event CONTRACTOR is determined by the final order of a court or appropriate agency to be in violation of any Federal, State or Local statute, rule, regulation, law or executive order or this provision, this Contract may be canceled, terminated or suspended in whole or in part by SHERIFF and CONTRACTOR may be declared ineligible for further SHERIFF contracts.

**12. HEALTH AND SAFETY.** CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs required by OSHA and all other regulatory agencies while providing Services under this Contract for CONTRACTOR's employees.

**13. NON-DISCRIMINATION IN EMPLOYMENT.** CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, race, sex, sexual orientation, gender identity or expression, creed, national origin or ancestry, marital or familial status, pregnancy, military status, religious belief or non-belief, or disability. CONTRACTOR shall take affirmative action to ensure that qualified applicants are employed and that employees are treated fairly and legally during employment with regard to their age, race sex, sexual orientation, gender identity or expression, creed, national origin or ancestry, marital or familial status, pregnancy, military status, religious belief or non-belief, or disability. In the event CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be canceled, terminated or suspended in whole or in part by SHERIFF, and CONTRACTOR may be declared ineligible for further SHERIFF contracts. **CONTRACTOR certifies that CONTRACTOR shall abide by Durham**

**County Ordinance Article I, Sections 15-1 through 15-85. Failure to abide by said Ordinance is a breach of this contract and grounds for terminating the contract for cause and without fault or liability to COUNTY. Nothing contained in this Section, this Contract, or the Durham County ordinances referenced herein shall be interpreted or applied in a manner contrary to any State or Federal law, including laws prohibiting Diversity, Equity, or Inclusion (DEI) measures, program, or initiatives.**

**14. EMPLOYMENT ADVERTISING REQUIREMENTS.** CONTRACTOR shall post local job openings, in connection with this contract, with the NC Works Web Site throughout the term of this Agreement; provided that the foregoing requirement does not limit CONTRACTOR'S ability to advertise and/or otherwise post job openings with other organizations or media outlets. SHERIFF shall not solicit, entice or employ, directly or indirectly, any of CONTRACTOR's employees or independent contractors to perform for SHERIFF services contemplated by this Agreement for the Facility during the period from the Effective Date through the second anniversary of the termination of this Agreement (other than through CONTRACTOR pursuant to this Agreement).

**15. E-VERIFY.** As a condition of payment for services rendered under this agreement, CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if CONTRACTOR provides the services to the SHERIFF utilizing a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as well. CONTRACTOR shall verify, by affidavit, compliance of the terms of this section upon request by the SHERIFF.

**16. AFFORDABLE CARE ACT REQUIREMENTS (Applicable Only to Staffing Agencies).** Beginning in 2015, employers with 100 or more full-time equivalent employees (50 or more beginning in 2016) must offer health insurance coverage that is affordable and provides "minimum value" to full-time employees and dependents as defined by the Patient Protection and Affordable Care Act or face penalties. Staffing companies under contract with Durham COUNTY are required to provide affordable minimum essential coverage as defined by the Patient Protection and Affordable Care Act and to indemnify Durham COUNTY against any 4980H penalties that result from their failure to provide the appropriate coverage. By signing this contract as a Staffing Company, CONTRACTOR shall comply with the aforementioned health insurance coverage requirements of the Affordable Care Act and indemnify the COUNTY against any associated 4980H penalties.

**17. SECURITY BACKGROUND CHECKS.**

A. For Particular Facilities:

1. For County Facilities other than Youth Home or Sheriff Facilities: with the exception of the Security contractor security personnel who have completed a Private Protected Services Board (PPSB) background check, the COUNTY is responsible for requesting 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.
2. Youth Home Facilities: Youth Home public safety classifications background checks can be provided by any vendor, or from a North Carolina State agency, providing that the criminal history check falls under the requirements of the North Carolina Criminal Standards and, provided that the criminal history check is done nationwide.
3. Sheriff Facilities – Courthouse and Detention Center. The Sheriff's Office will conduct background investigations for those Contractor employees who will be working at the Courthouse or Detention Center.

B. General Provisions.

A criminal history will not automatically disqualify a Contractor employee from employment on a SHERIFF contract unless explicitly mandated by law.

The Contractor will complete the background check process prior to commencing work at Durham County Government. The results of the check will be reviewed by CONTRACTOR's County point of contact who will provide them to the Durham County Security Manager. The Human Resources Department 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 Human Resources Department will consult the Legal Office, as needed, on any negative determinations. The Human Resources Department will notify the Contractor's County point of contact of the results of the review. Contractor can appeal a negative determination by the Human Resources Department to the County Manager or the County Manager's designee for final disposition. Appeals need to be submitted in writing to the County 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 SHERIFF buildings. The Contractor shall provide names of all individuals in the Contractor communications log and to the SHERIFF point of contact. 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. 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 disabled.

**18. AUDIT RIGHTS.** For all Services being provided hereunder, SHERIFF shall have the right to inspect, examine, and make copies of any and all books, accounts, invoices, records and other writings relating to the performance of the Services. Audits shall take place at times and locations mutually agreed upon by both parties. Notwithstanding the foregoing, CONTRACTOR must make the materials to be audited available within thirty (30) days of the request for them.

**19. DISPUTE RESOLUTION PROCEDURE.** To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between SHERIFF and the CONTRACTOR, arising from this Contract or the services and/or materials being provided by the CONTRACTOR, shall be sent to a qualified mediator reasonably acceptable to the parties to address the issue. The Mediator's orders, decisions and decrees shall be non-binding. Mediation, pursuant to this provision, shall be a pre-condition to initiating litigation concerning the dispute. During the pendency of any dispute and after a determination thereof, parties to the dispute shall act in good

faith to mitigate any potential damages including utilization of schedule changes and alternate means of providing services and/or materials. The costs of mediation shall be divided equally between parties to the dispute. In the event a mediator cannot be agreed upon, the parties agree that a mediation shall not be required.

The mediation session shall be private and shall be held in Durham COUNTY, North Carolina. Mediation under this provision shall not be the cause for a delay of services and/or materials being provided which is the focus of the dispute.

If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the COUNTY of Durham and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this provision, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

- 20. EXISTENCE.** CONTRACTOR warrants that it is a corporation or otherwise legal entity duly organized, validly existing, and in good standing under the laws of the State of North Carolina and is duly qualified to do business in the State of North Carolina and has full power and authority to enter into and fulfill all the terms and conditions of this contract.
- 21. CORPORATE AUTHORITY.** By execution hereof, the person signing for CONTRACTOR below certifies that he/she has read this contract and that he/she is duly authorized to execute this contract on behalf of the CONTRACTOR.
- 22. SUCCESSORS AND ASSIGNS.** CONTRACTOR AND SHERIFF shall not assign its interest in this Contract without the written consent of the other party. CONTRACTOR has no authority to enter into contracts on behalf of SHERIFF.
- 23. NOTICES.** All notices which may be required by this contract or any rule of law shall be effective when received by certified mail sent to the following addresses:
- |   |                                    |
|---|------------------------------------|
| <b>SHERIFF OF DURHAM COUNTY</b>                       | <b>TKC MANAGEMENT SERVICES</b>     |
| <b>ATTN: CHIEF DEPUTY</b>                             | <b>ATTN: LEGAL/CONTRACTS</b>       |
| <b>510 SOUTH DILLARD STREET, 3<sup>RD</sup> FLOOR</b> | <b>4500 CAMERON VALLEY PARKWAY</b> |
| <b>DURHAM, NC 27701</b>                               | <b>CHARLOTTE, NC 28211</b>         |
- 24. HEADINGS, WAIVER, SEVERANCE.** The subject headings of the sections are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This contract shall be deemed to have been drafted by both parties and no interpretation shall be made to the contrary. An alleged waiver of a term of this Agreement by COUNTY, whether express or implied, on one occasion shall not be construed to operate as a waiver on other occasions or other provisions. If County fails to require strict performance of a term of this Agreement, fails to exercise a remedy for a breach of this Agreement, or fails to reject a payment during a breach of this Agreement, that failure does not constitute a waiver of that term or breach. If any part of this Agreement is held to be illegal or invalid by a court of competent jurisdiction, such provisions shall be considered severed and deleted and such severance shall not affect the validity of the remaining provisions hereof.
- 25. GOVERNING LAW.** This Contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Contract shall be brought in the General Court of Justice in the COUNTY of Durham and the State of North Carolina.
- 26. REQUIRED PROVISIONS FOR CONTRACTS/AGREEMENTS/GRANTS UTILIZING FEDERAL**

**FUNDS.** Pursuant to the Federal Uniform Guidance Appendix II to 2 CFR Part 200, if Federal Funds are involved in this Contract/Agreement/Grant Agreement, by executing this Contract/Agreement/Grant Agreement, the Contractor/Vendor/Grantee, certifies that it agrees to and is in compliance with the provisions specified in the– **Federal Uniform Guidance Contract Provisions Certification.**

- 27. **ATTORNEY’S FEES.** In the event either of the parties hereto shall institute any action or proceeding against the other party relating to this Contract, the unsuccessful party in such action or proceeding shall reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorney’s fees as fixed by the court.
- 28. **SHERIFF’S REPRESENTATIVE.** SHERIFF shall designate one (1) person to serve as SHERIFF’s representative in all dealings with CONTRACTOR hereunder. Whenever the approval or consent or other action of SHERIFF is called for hereunder, such approval, consent or action shall be binding on SHERIFF if specified in writing and executed by SHERIFF’s representative. The original SHERIFF’s representative shall be the notice party for SHERIFF as designated in in this Contract. Such representation may be changed at the discretion of SHERIFF, at any time, by written notice to CONTRACTOR.
- 29. **FORCE MAJEURE.** Neither party shall be liable to the other in damages nor shall this CONTRACT be terminated nor a default be deemed to have occurred because of any failure to perform hereunder caused by a Force Majeure (as defined below). Either party hereto may delay performance hereunder as a result of the occurrence of a Force Majeure for the duration of said Force Majeure. For purposes of this CONTRACT, “Force Majeure” shall be an event such as, but not limited to, fire, earthquake, flood, explosion, casualty, strike, unavoidable accident, riot, insurrection, civil disturbances, act of public enemy, embargo, war, act of God, inability to obtain labor, materials or supplies, any outbreak of disease, and any governmental regulation, restriction or prohibition, or any other similar cause beyond the parties’ reasonable control; provided, that in no event shall the unavailability of money constitute a “Force Majeure”.
- 30. **CONSENTS OR APPROVALS NOT UNREASONABLY WITHHELD, CONDITIONED OR DELAYED.** Except as herein otherwise expressly provided, whenever in this Contract the consent or approval of SHERIFF or CONTRACTOR is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed
- 31. **ENTIRE CONTRACT.** This contract, including all exhibits shall constitute the entire understanding between SHERIFF and CONTRACTOR and shall supersede all prior understandings and agreements relating to the subject matter hereof and may be amended only by written mutual agreement of the parties.

**IN TESTIMONY WHEREOF**, the parties have expressed their agreement to these terms by causing this Service Contract to be executed by their duly authorized officer or agent.

**SHERIFF OF DURHAM COUNTY**

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

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

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

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

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**Crystally Wright, Durham County Interim Chief Financial Officer**

**TKC MANAGEMENT SERVICES**

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

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

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

EXHIBIT B  
FY 26/27 Budget

[SEE ATTACHED]

Exhibit C Management Fees

| PROPERTY  | RATE             |
|---|------------------|
| Durham County Detention Facility<br>219 S Mangum St, Durham, NC 27701 | \$12,454 monthly |

\*(shall increase by three (3%) effective annually on each anniversary of the Effective Date in accordance with approved Budget)