ADDENDUM # 2

From: Lena Butler, Purchasing Supervisor
To: All Proposers
Project: RFP # 19-0353 Electronic Monitoring
Date: April 17, 2019

This addendum is related to the County’s Request for Proposals “RFP # 19-0353-Electronic Monitoring” and is hereby made a part of said RFP to the same extent as though it were originally therein.

This second addendum is necessary to answer additional questions that were omitted from the first addendum.

Questions submitted by Track Group:

1. We respectfully ask the County to allow submission of alternative alcohol monitoring technology solutions rather than require only transdermal based products. General Statute 15A-534(a) states, “that the defendant abstain from alcohol consumption, as verified by a continuous alcohol monitoring system”.

2. Would the county please indicate whether or not they utilize any home curfew functionality in conjunction with the current transdermal alcohol monitoring product? Home curfew functionality is not utilized in conjunction with the current transdermal alcohol monitoring product.

3. Will the County please identify the number of staff that will require training upon contract execution? Five staff members will require training.

4. Will the County please identify the number of training location(s) to utilize? There will be one training location.

5. Will the County please provide the average active daily offenders on GPS monitoring? The average active daily offenders on GPS monitoring is 79.

6. Will the County please provide the average active daily offenders on Alcohol Monitoring? The average active daily offenders on Alcohol Monitoring is 11.

7. Will the County please list the current vendor and model names of all equipment currently being utilized? Securus Monitoring Solutions (formerly Satellite Tracking of People, LLC); BluTag for Active/Passive GPS and SCRAM for continuous alcohol monitoring.

8. Will the County please provide the current pricing for all electronic monitoring products and services? $4.75 Active; $3.95 Passive; $9.00/$11.00 CAM/CAM Wireless; $0.75 Monitoring Center Services.
9. Will the County please provide how many/percentage of spares units are allowed to have on hand in the current program? **Twenty percent of spare units for GPS; one to two spare CAM units.**

10. Does the County currently pay for spares units above their allotted percentage? **No.**

11. Will the County please provide the number of lost/stolen/damage devices over the past twelve (12) months? **25 devices were lost; number of damaged devices unavailable.**

12. Is the County or the Vendor responsible for lost/stolen/damaged devices? **Vendor.**

Questions submitted by BI Incorporated:

1. Does the County require an affidavit attesting to Contractor compliance with E-Verify requirements to be submitted with the proposal? **No.** The original RFP does not contain an affidavit regarding E-Verify compliance. Will the county provide an affidavit of E-Verify compliance as an addendum? **No.**

2. Please confirm the County does not allow subcontractors. **Equipment suppliers approved by the County will not be deemed subcontractors for purposes of this RFP.**

3. The original RFP does not contain a Proposer Application form or EFT form. Where do vendors find such forms? **The successful proposer who is not currently a vendor will be required to enroll as a vendor.**

4. General Information:
   a. Who is the incumbent provider of services for the County? **Securus Monitoring Solutions (formerly Satellite Tracking of People, LLC).**
   b. Which product names are being utilized for both GPS and CAM? **BluTag for Active/Passive GPS and SCRAM for continuous alcohol monitoring.**
   c. What are the current quantities of each specified product type in use by the County? **76 Active, 36 Passive, 13 CAM in use on March 31, 2019.**
   d. Is the County looking for one provider to provide both CAM and GPS? **Yes.**

5. Listing all clients that we contract with will number into the thousands of highly confidential contacts. Will the County allow revision to this specification to read “Name, address, phone number, and name of agency contact person of agencies similar in size and scope”? **Yes.**

6. Please confirm the County will accept parent company financials. **Yes.**

7. Does the County expect vendors to provide a custom pricing form? **Yes.**

8. See question #2. **Equipment suppliers approved by the County will not be deemed subcontractors for purposes of this RFP.**
9. What does the County mean by communication with the monitoring center must be available via a wireless network? **Communication with the monitoring center via a wireless network is not required for purposes of this RFP.**

10. Given the known security vulnerabilities of IE 11, lack of application support from the developer, and small percentage of browser market share, will the County allow vendors to propose a single browser? **The software must be compatible with Internet Explorer 11 or higher, or Google Chrome.**

11. General Questions:

   a. Will there be equipment testing during the process from interested providers? **Dependent upon the close ratings of the proposals.**
   b. Will the County provide an opportunity for contractors to present their electronic monitoring solutions during this RFP process? **No.**
   c. Will the County reimburse the contractor for lost and damaged equipment? **No.**
   d. Please extend the due date of proposals to allow for proposal submission at least 2 weeks from the date of answers to questions being posted. **Two weeks are currently allotted between posting of answers to questions and the due date of proposals. Deadline for proposals will remain May 1, 2019 @ 5:00 PM EST.**

Note:
Draft contract is attached.
NORTH CAROLINA
NEW HANOVER COUNTY

AGREEMENT

THIS CONTRACT made and entered into this _____ day of ___________________ 2019 by and between NEW HANOVER COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as "County"; and _____________________________, a _______________ hereinafter referred to as "Contractor."

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the County as follows:

1. **Scope of Services.** Contractor shall provide electronic monitoring equipment and services for pretrial defendants awaiting trial according to Exhibit A, attached hereto and incorporated herein by reference.

2. **Time of Performance.** The term of this Agreement shall begin with Notice to Proceed and shall continue through June 30, 2022. This contract may renew under the same terms and conditions for an additional one (1) two (2) year period upon written approval of County.

3. **Payment.** County hereby agrees to pay for the cost of this Contract not to exceed a sum of ___________________________ ($_______) Dollars. Payment is contingent upon a final County inspection and acceptance of work or services.

4. **Extra Work.** County and Contractor shall negotiate and agree upon the value of any extra work or services prior to the issuance of a County Change Order or Renewal/Amendment (CRA) form covering said extra work or services. Such Change Order or CRA shall set forth the corresponding adjustment, if any, to the Contract Price and Contract Time.

5. **Indemnity.** Contractor shall indemnify and hold County, its officers, officials, agents, and employees, harmless against any and all claims, demands, causes of action, or other liability, including attorney fees, for any property damages, personal injuries or death arising out of, relating to, or resulting from the negligence, willful act, or omission of Contractor, its agents, employees and subcontractors in the performance of work or services.
6. **Insurance.** Before commencing any work or services, Contractor shall procure insurance in Contractor’s name and maintain all insurance policies for the duration of the Contract of the types and in the amounts listed in this Contract. The insurance shall provide coverage against claims for injuries to persons or damages to property which may arise from operations or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees, or subcontractors, whether such operations by itself or anyone directly or indirectly employed by it.

7. **Minimum Scope and Limits of Insurance**

7.1. **Commercial General Liability**

7.1.1. Contractor shall maintain Commercial General Liability (CGL) and if necessary, Commercial Umbrella Liability (CUL) insurance with a total limit of not less than $1,000,000 for each occurrence for bodily injury and property damage. If such CGL insurance contains a general aggregate limit, it shall apply separately to this work or services, or the general aggregate shall be twice the required limit.

7.1.2. CGL insurance shall be written on Insurance Services Office (ISO) “occurrence” form CG 00 01 covering CGL or its equivalent and shall cover the liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract, including the tort liability of another assumed in a business contract.

7.1.3. County, its officers, officials, agents, and employees are to be covered as additional insureds under the CGL by endorsement CG 20 26 or an endorsement providing equivalent coverage as respects to liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor; and under the CUL, if any. The coverage shall contain no special limitations on the scope of protection afforded to County, its officers, officials, agents, and employees.

7.1.4. Contractor’s CGL insurance shall be primary as respects County, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by County, its officers, officials, agents, and employees shall be in excess of and shall not contribute to Contractor’s insurance.

7.2. **Workers' Compensation and Employer's Liability**
7.2.1. Contractor shall maintain Workers’ Compensation as required by the general statutes of the State of North Carolina and Employer’s Liability Insurance.

7.2.2. Employer’s Liability, and if necessary, CUL insurance shall not be less than $500,000 for each accident for bodily injury by accident, $500,000 for each employee for bodily injury by disease, and $500,000 policy limit.

7.2.3. The insurer shall agree to waive all rights of subrogation against County, its officers, officials, agents, and employees for losses arising from work or services performed by Contractor for County.

7.3. Business Auto Liability

7.3.1. Contractor shall maintain applicable Business or Personal Auto Liability and, if necessary, CUL insurance with a limit of not less than $1,000,000 each accident. Personal auto insurance may be accepted in lieu of Business Auto Insurance.

7.3.2. Such insurance shall cover liability arising out of any auto, including owned, hired, and non-owned autos used in the performance of work or services.

7.3.3. Business Auto coverage shall be written on ISO form CA 00 01, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide Contractual liability coverage equivalent to that provided in ISO form CA 00 01.

7.3.4. Contractor’s Business Auto Liability insurance shall be primary as respects County, its officers, officials, agents, and employees. Any other insurance or self-insurance maintained by County, its officers, officials, agents, and employees shall be in excess of and shall not contribute to Contractor’s insurance.

7.4 Professional Liability Insurance

7.4.1 Contractor shall maintain in force for the duration of this Contract Contractor liability or errors and omissions liability insurance appropriate to Contractor’s profession. Coverage as required in this paragraph shall apply to liability for a Contractor error, act, or omission arising out of the scope of Contractor’s services as
defined in this Contract. Coverage shall be written subject to limits of not less than $2,000,000 per loss.

7.4.2 If coverage in this Contract is on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract, and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time that work or services under the Contract is complete.

7.5 **Cyber Liability.** Contractor shall maintain cyber liability insurance in the amount of $2,000,000 each occurrence and insuring against liability to cover expenses associated with data breaches, including: notification costs, credit monitoring, costs to defend claims by state regulators, fines and penalties and loss resulting from identify theft.

7.6 **Deductibles and Self-Insured Retentions**

7.6.1. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, agents, or employees; Contractor shall procure a bond guaranteeing payment of deductibles or self-insured retentions.

7.6.2. Contractor shall be solely responsible for the payment of all deductibles to which all policies are subject, regardless of whether County is an insured under the policy.

7.7 **Miscellaneous Insurance Provisions.**

7.7.1. Any failure to comply with reporting provisions of the policies listed in this Contract shall not affect coverage provided to County, its officers, officials, agents, and employees.

7.7.2. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days prior written notice has been given to County, 230 Government Center Drive, Ste. #125, Wilmington, NC  28403.
7.7.3. If Contractor’s liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

7.8. **Acceptability of Insurers.** Insurance is to be placed with insurers licensed to do business in the State of North Carolina with an A.M. Best’s rating of no less than A VII unless County has granted a specific exemption.

7.9. **Evidence of Insurance**

7.9.1. Contractor shall furnish County with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements prior to commencing the work or services, and thereafter upon renewal or replacement of each certified coverage until all operations under this Contract are deemed complete.

7.9.2. Evidence of additional insured status shall be noted on the certificate of insurance as per requirements in this Contract.

7.9.3. With respect to insurance maintained after final payment in compliance with requirements, an additional certificate(s) evidencing such coverage shall be provided to County with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the period for which such insurance must be maintained.

7.10. **Subcontractors.** Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein. CGL coverage shall include independent contractors’ coverage, and Contractor shall be responsible for assuring that all subcontractors are properly insured.

7.11. **Conditions**

7.11.1. County may, at its discretion and with approval of Risk Management and the Finance Department, accept letters of credit or custodial accounts in lieu of specific insurance requirements.

7.11.2. Contractor shall warrant that the insurance contributing to the satisfaction of insurance requirements in this Contract and shall not be canceled, terminated, or modified by Contractor without prior written approval of County.
7.11.3. Contractor shall promptly notify New Hanover County Community Justice Services and New Hanover County Risk Management at (910) 798-7497 of any accidents arising in the course of operations under the Contract causing bodily injury or property damage.

7.11.4. County reserves the right to obtain complete, certified copies of all required insurance policies.

7.11.5. Failure of County to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of County to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor’s obligation to maintain such insurance.

7.11.6. County does not represent that coverage and limits will be adequate to protect Contractor and such coverage and limits shall not be deemed as a limitation of Contractor’s liability under the indemnities granted to County in this Contract.

7.11.7. If Contractor fails to maintain the insurance as set forth herein, County shall have the right to purchase said insurance at Contractor’s expense. Contractor agrees to reimburse County for all expenses incurred for such purchase.

7.11.8. Contractor or its agent may apply to County for approval of higher deductibles based on financial capacity and quality of the carrier affording coverage.

7.11.9. County shall have the right to prohibit Contractor or any subcontractor from performing work or services and may withhold payment until required certificates has been received and approved by County.

8. Independent Contractor. The parties mutually agree that the Contractor is an independent contractor and not an agent of the County, and as such, the Contractor shall not be entitled to any County employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen’s compensation, or pension and retirement benefits.

9. Default and Termination. If Contractor fails to prosecute the work or services with such diligence as will insure its completion within the Contract time, or if Contractor breaches any of the terms or conditions contained in this Contract and fails to
cure said breach within two (2) days of County’s mailing of Notice of Default, or otherwise fails to perform the work or services hereunder to the County’s reasonable satisfaction, County may terminate this Contract forthwith. Upon termination, County may, without prejudice to an action for damages or any other remedy, take the prosecution of the work or services out of the hands of Contractor. County may enter into another Contract for the completion of the Contract, or use such other methods as may be required for the completion of the Contract. County may deduct all costs of completing the Contract from any monies due or which may become due to Contractor. In the event this Contract is terminated prior to completion of the services by the Contractor, the Contractor shall be paid for work or services performed to the date of termination. In no event will the amount due Contractor in the event of termination exceed that amount set forth in this Contract. Nothing contained herein shall prevent the County from pursuing any other remedy, which it may have against Contractor, including claims for damages.

10. **Termination for Convenience.** Either party may terminate this Contract for convenience at any time and without cause upon ninety (90) days written notice. Upon receipt of notice, Contractor shall immediately discontinue providing the work or service and, if applicable, the placing any orders for any materials, facilities, and supplies in connection with the performance of the work or services of this Contract.

11. **Non-appropriation.** All funds for payment by County under this Contract are subject to the availability of an annual appropriation of Commissioners for the services provided under the Contract, County will terminate the Contract, without termination charge or liability, on the last day of the then-current fiscal year or when the appropriation made for then-current year for the services/items covered by this Contract is spent, whichever occurs first. If at any time funds are not appropriated for the continuance of this Contract, cancellation shall be accepted by the Contractor on ten (10) business days’ prior written notice, but failure to give such notice shall be of no effect and County shall not be obligated under this Contract beyond the date of termination.

12. **Non-waiver of Rights.** The parties mutually agree that either party’s failure to insist upon the strict performance of any provision of this Contract or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this Contract.
13. **Conflict of Interest.** No paid employee of the County shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this Contract.

14. **Subcontracts.** The Contractor shall utilize no subcontractors for performing the work or services to be performed under this Contract without the prior written approval of the County.

15. **Entire Contract.** This Contract constitutes the entire understanding of the parties.

16. **Binding Effect.** This Contract shall be binding upon the parties hereto, and their heirs, successors, executors, administrators and assigns.

17. **Severability.** If any provision of this Contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.

18. **Inclusive Terms.** Use of the masculine herein shall include the feminine and neuter, and the singular shall include the plural.

19. **Governing Law.** All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina.

20. **E-Verify Compliance.** Pursuant to N.C.G.S. 143-133.3, Contractor shall fully comply with the U.S. Department of Homeland Security employee legal status E-Verify requirements for itself and all its subcontractors. Violation of the provision, unless timely cured, shall constitute a breach of Contract.

21. **Compliance with Federal Law.** If applicable, all federally funded projects, loans, grants, and sub grants whether funded in part or wholly, must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).

22. **Notices.** All notices required hereunder to be sent to either party shall be sent to the following designated addresses, or to such other address or addresses as may hereafter be designated by either party by mailing of written notice of such change of address, by Certified Mail, Return Receipt Requested:

**To County:**
New Hanover County
Community Justice Services Department
Adult Enhancement Services
Attn: Michelle Taylor
320 Chestnut Street, Ste. 518
Wilmington, NC 28401

To Contractor:

__________________________________
__________________________________
__________________________________

23. **Assignability.** The parties hereto agree that this Contract is not transferable and shall not be assigned by either party without the written consent of the other party to this Contract.

24. **Contract Under Seal.** The parties hereto expressly agree to create a Contract under seal.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals, the day and year first above written and by authority duly given.

NEW HANOVER COUNTY

[SEAL]

__________________________________
County Manager

ATTEST:

___________________________
Clerk to the Board

___________________________
CONTRACTOR
[SEAL]

BY: __________________________ (Seal)
President

ATTEST:

___________________________
Secretary

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

Approved as to form:

___________________________
County Finance Officer

___________________________
County Attorney

Acct# 11064700 700045

Page 9 of 10
STATE OF NORTH CAROLINA

NEW HANOVER COUNTY

I, __________________________________, a Notary Public of the State and County aforesaid, certify that Kymberleigh G. Crowell acknowledged that she is Clerk to the Board of Commissioners of New Hanover County, and that by authority duly given and as the act of the Board, the foregoing instrument was signed in its name by its County Manager, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal, this _____ day of _________________________, 2019.

______________________________
Notary Public

My commission expires:______________

STATE OF ______________
______________COUNTY

I, _____________________________, a Notary Public in and for the State and County aforesaid, certify that ____________________________ personally came before me this day and acknowledged that (s)he is President of ____________________________, a limited liability corporation and that by authority duly given and as the act of the limited liability corporation, the foregoing instrument was signed in its name by its President.

WITNESS my hand and official seal, this ____ day of _________________________, 2019.

______________________________
Notary Public

My commission expires:______________