

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

BID # \_\_\_\_\_  
ORDINANCE # \_\_\_\_\_  
CONTRACT# \_\_\_\_\_

**AGREEMENT FOR SECURITY GUARD SERVICES**

**ARTICLE 1. PARTIES**

**THIS AGREEMENT FOR SECURITY GUARD SERVICES** (this "Agreement") is made on the date countersigned by the City Controller between the **CITY OF HOUSTON, TEXAS** (the "City"), a home-rule city of the State of Texas principally situated in Harris County and \_\_\_\_\_ ("Contractor"), a \_\_\_\_\_ doing business in Texas.

1.01 **ADDRESS:**

1.01.1 The initial addresses of the Parties, which one Party may change by giving written notice to the other Party, are as follows:

**City**

Director or Designee  
General Services Department  
City of Houston  
P. O. Box 1562  
Houston, Texas 77251

**Contractor**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

The Parties agree as follows:

1.02 **TABLE OF CONTENTS**

1.02.1 This Agreement consists of the following sections:

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1.03 **PARTS INCORPORATED**

1.03.1 The above-described sections and exhibits are incorporated into this Agreement.

1.04 **CONTROLLING PARTS**

1.04.1 If a conflict between the sections or exhibits arises, the sections control over the exhibits.

1.05 **DEFINITIONS**

1.05.1 Certain terms used in this Agreement are defined in **Exhibit "A"**.

1.06 **SIGNATURES**

1.06.1 The Parties have executed this Agreement in multiple copies, each of which is an original. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms. The Parties hereby agree that each Party may sign and deliver this Agreement electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

**ATTEST/SEAL (if a corporation):  
WITNESS (if not a corporation):**

\_\_\_\_\_  
Name:  
Title:

ATTEST/SEAL:

\_\_\_\_\_  
City Secretary

APPROVED:

\_\_\_\_\_  
Director, General Services Department

APPROVED:

\_\_\_\_\_  
Chief Procurement Officer

This Agreement has been reviewed as to form by the undersigned and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

\_\_\_\_\_  
Legal Assistant  
Date: \_\_\_\_\_

**CONTRACTOR:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name:  
Title:  
Federal Tax ID Number: \_\_\_\_\_

**CITY OF HOUSTON, TEXAS**

Signed by:

\_\_\_\_\_  
Mayor

COUNTERSIGNED BY:

\_\_\_\_\_  
City Controller

COUNTERSIGNATURE DATE:

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
L.D. File No. \_\_\_\_\_

## ARTICLE 2. DUTIES OF CONTRACTOR

### 2.01 SCOPE OF SERVICES

2.01.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, tools, equipment, permits, parts, expendable items, material, and supplies necessary to perform the services described in **Exhibit "B"** and **Exhibit "B-1"**.

### 2.02 COORDINATE PERFORMANCE

2.02.1 Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

### 2.03 TIME EXTENSIONS

2.03.1 If Contractor requests an extension of time to complete its performance, then the Director, in consultation with the CPO, may, in his or her sole discretion, extend the time so long as the extension does not exceed 180 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

2.03.2 If the Director requests an extension of time to complete Contractor's performance, then the CPO may, upon consultation with the Director involved, extend the time so long as the extension does not exceed 180 calendar days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

### 2.04. REPORTS

2.04.1 Contractor shall submit all reports and progress updates required by the Director or CPO.

### 2.05 PAYMENT OF SUBCONTRACTORS

2.05.1 Contractor shall provide the Director with an updated list of all subcontractors including phone numbers of contact personnel.

2.05.2. Prior to the Director assigning any work, the Contractor shall provide the Director with an affidavit from each subcontractor stating that there is a signed contract between the Contractor and subcontractor.

2.05.3. The Director may, at its discretion, limit the number of subcontract firms working under Contractor or its subcontractors at the Director's sole discretion to ensure safety and quality of work provided.

2.05.4 In accordance with the Texas Prompt Payment Act, Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment by, through, or under Contractor in the performance of this Agreement.

2.05.5 **IN ACCORDANCE WITH THE TEXAS PROMPT PAYMENT ACT, CONTRACTOR SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES THAT CONTRACTOR HAS HIRED TO SUPPLY LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS REGARDLESS OF WHETHER THE FAILURE TO PAY IS CAUSED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), OR GROSS NEGLIGENCE, (WHETHER SOLE, JOINT OR CONCURRENT), STRICT LIABILITY, INTENTIONAL ACTS, OR OTHER CONDUCT OR LIABILITY OF THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES.**

2.05.6 Failure of Contractor to pay its employees as required by law shall constitute a default under this Agreement, for which Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.

2.06 **CONTRACTOR'S PERSONNEL**

2.06.1 In selecting Contractor for this Agreement, the City relied on the qualifications and experience of those persons identified by Contractor by name as performing the Services ("Key Personnel") as listed in **Exhibit "G"**. Contractor must not reassign or replace Key Personnel without the Director's prior written approval. Upon the Director's approval, the Director shall update **Exhibit "G"**, which does not require amendment to this Agreement, to reflect the new Key Personnel.

2.06.2 Contractor shall replace any of its personnel, including Key Personnel, or subcontractors whose performance, work, or work product is deemed unsatisfactory at the Director's discretion.

2.07 **RELEASE**

2.07.1 **CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY. CONTRACTOR HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS AGREEMENT.**

**2.08 INDEMNIFICATION**

**2.08.1 CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:**

**2.08.1.1 CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED SECTIONS 2.08.1.1 THROUGH 2.08.1.3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;**

**2.08.1.2 THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND**

**2.08.1.3 THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.**

**2.08.2 CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.**

**2.09 SUBCONTRACTOR'S INDEMNITY**

**2.09.1 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.**

**2.10 INDEMNIFICATION PROCEDURES**

**2.10.1 Notice of Claims.** If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving Party shall give written notice to the other Party within 30 days. The notice must include the following:

**2.10.1.1 a description of the indemnification event in reasonable detail;**

**2.10.1.2 the basis on which indemnification may be due; and**



2.10.1.3 the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 30-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

2.10.2 Defense of Claims

2.10.2.1 Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney. Contractor shall then control the defense and any negotiations to settle the claim, subject to the City Attorney’s consent or agreement to the settlement, which consent or agreement shall not unreasonably be withheld. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

2.10.2.2 Continued Participation. If Contractor elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations.

2.11 INSURANCE

2.11.1 **Risks and Limits of Liability.** Contractor shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
Workers’ Compensation	Statutory for Workers’ Compensation
Employer’s Liability	<ul style="list-style-type: none"> <li>• Bodily Injury by Accident \$500,000 (each accident)</li> <li>• Bodily Injury by Disease \$500,000 (policy limit)</li> <li>• Bodily Injury by Disease \$500,000 (each employee)</li> </ul>
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit for: (i) Any Auto; or (ii) All Owned, Hired, and Non-Owned Autos
Excess Liability Coverage, or Umbrella	\$1,000,000

Coverage, for Commercial General Liability and Automobile Liability	
<b>Aggregate Limits are per 12-month policy period unless otherwise indicated.</b>	

2.11.2 **Insurance Coverage.** At all times during the term of this Agreement and any extensions or renewals, Contractor shall provide and maintain insurance coverage that meets the Agreement requirements. Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Contractor shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing adequate coverage, as necessary. Contractor shall be responsible for and pay: (i) all premiums; and (ii) any claims or losses to the extent of any deductible amounts. Contractor waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Contractor shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except amount. The amount must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

2.11.3 **Form of insurance.** The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never: (i) excuse non-compliance with the terms of this Section; or (ii) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall: (i) have a Certificate of Authority to transact insurance business in Texas; or (ii) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.

2.11.4 **Required Coverage.** The City shall be an Additional Insured under this Agreement, and all policies, except Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Agreement provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor's insurance policies. Each policy, except Workers' Compensation, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement. All certificates of insurance submitted by Contractor shall be accompanied by endorsements for: (i) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and (ii) Waivers of Subrogation in favor of the City for Commercial General Liability, Automobile Liability and Workers' Compensation/Employers' Liability policies. The Director will consider all other forms on a case-by-case basis.

2.11.5 **Notice. CONTRACTOR SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED.** Within the 30-day period, Contractor shall provide other suitable policies in order to maintain the required coverage. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.

2.11.6 **Other Insurance.** If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

## 2.12 **WARRANTIES**

2.12.1 Contractor warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.

## 2.13 **CONFIDENTIALITY**

2.13.1 Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

## 2.14 **LICENSES AND PERMITS**

2.14.1 Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation for the performance under this Agreement. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against its license.

## 2.15 **COMPLIANCE WITH LAWS**

2.15.1 Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances in its performance under this Agreement.

2.15.2. With respect to its Subcontractors, Contractor shall:

2.15.2.1. Advise Contractor's Subcontractors of and require that they comply with the provisions of this Agreement; and

2.15.2.2. Obtain written agreements from Subcontractors which bind Subcontractors to the terms of this Agreement, including without

limitation:

- 2.15.2.2.1. The insurance requirements contained in **Section 2.11**.
- 2.15.2.2.2. Compliance with Laws as set forth in **Section 2.15**.
- 2.15.2.2.3. The performance requirements contained in **Section 2.21**.
- 2.15.2.2.4. The license and permit requirements contained in **Section 2.14**.
- 2.15.2.2.5. Compliance with Equal Opportunity Ordinance as set forth in **Section 2.16**.
- 2.15.2.2.6. Drug abuse detection and deterrence requirements in **Section 2.18** and Exhibits "C", "D" and "E".
- 2.15.2.2.7. If the subcontract is over \$200,000 in value, the Pay or Play requirements in **Section 2.19**.
- 2.15.2.2.8. The wage theft prevention requirements in Section 2.26.
- 2.15.2.2.9. The City has the same audit rights over Subcontractor's books and records as set forth in **Section 5.10**.
- 2.15.2.2.10. The entire Scope of Work contained in **Exhibit "B"** and "B-1" including the minimum wage and benefits requirements and Labor Relations Plan requirements..15.3 Contractor and its Subcontractors cannot circumvent the requirements and obligations in this Agreement by further subcontracting the work.

## 2.16 **COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY ORDINANCE**

2.16.1 Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in Section 15-17 of the Code of Ordinances.

## 2.17 **MWBE COMPLIANCE**

2.17.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances and the applicable Office of Business Opportunity's ("OBO") Policies and Procedures. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least **16%** of the value of this Agreement to MWBEs ("Stated MWBE goal"). If the Contractor is a certified MBE or WBE, Contractor may count toward goals the work that it commits to perform with its own work force, capped at 50% of the total advertised goal. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with OBO and will comply with them

2.17.2 For purposes of this Section, "Agreement Year" means a twelve (12) month period during the term of the Agreement commencing on the Effective Date of this Agreement and each anniversary thereof. If the term of this Agreement exceeds one Agreement Year and Contractor's MWBE participation level in a Agreement Year is less than the Stated MWBE goal, then within 30 calendar days of the end of each Agreement Year Contractor must provide a written explanation to both the Director and Office of Business Opportunity Director ("OBO Director") of the following: (1) the discrepancy between Contractor's MWBE participation level and the Stated MWBE goal, (2) the reason for the discrepancy, and (3) Contractor's good faith efforts (in accordance with the City's policy) towards achieving the Stated MWBE goal. As part of the good faith efforts assessment, the OBO Director

may consider Contractor's failure to timely submit the notice or explanation required by this provision and the OBO Director may impose sanctions or other penalties on Contractor for said failures in accordance with Chapter 15 of the Code of Ordinances, OBO's policies and procedures, and the City's good faith efforts policy.

2.17.3 Contractor shall maintain records showing:

2.17.3.1 Subcontracts and supply agreements with Minority Business Enterprises;

2.17.3.2 Subcontracts and supply agreements with Women Business Enterprises; Subcontracts and supply agreements with Small Business Enterprises (if any);

2.17.3.3 Written confirmation from MWBE subcontractors and suppliers that they are participants on the Agreement; and

2.17.3.4 Specific efforts to identify and award subcontracts and supply agreements to MWBEs. Contractor shall submit periodic reports of its efforts under this Section to the OBO Director in the form and at the times he or she prescribes

2.17.4 Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers contain the following terms:

2.17.4.1 [Name of MWBE subcontractor] shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

2.17.4.2 Within five (5) business days of execution of this subcontract, Contractor [prime contractor] and Subcontractor shall designate, in writing, to the City of Houston's OBO Director ("the OBO Director") an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street, mailing address, phone number, and email address of such agent.

2.17.4.3 After reasonable attempt(s) to resolve disputes between the parties involving the terms, covenants, or conditions of this subcontract, a request for dispute resolution may be submitted to the Director. The Director may prescribe procedures to provide dispute resolution services in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances

## 2.18. **DRUG ABUSE DETECTION AND DETERRENCE**

- 2.18.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 (the "Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.
- 2.18.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- 2.18.2.1 a copy of its drug-free workplace policy;
  - 2.18.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in **Exhibit "C"**, together with a written designation of all safety impact positions; and
  - 2.18.2.3 if applicable (e.g., no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in **Exhibit "D"**.
- 2.18.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to **Exhibit "E"**. Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or, if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.
- 2.18.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.
- 2.18.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

## 2.19 **PAY OR PLAY**

- 2.19.1 The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7, as revised, and shall comply with its terms and conditions.

2.20. **CONTRACTOR'S PERFORMANCE**

2.20.1 Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards

2.21. **CHANGES**

2.21.1 At any time during the Agreement Term, the CPO may issue a Change Order to increase or decrease the scope of services or change plans and specifications as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

2.21.2 The CPO will issue the Change Order in substantially the following form:

<b><u>CHANGE ORDER</u></b>	
TO:	[Name of Contractor]
FROM:	City of Houston, Texas (the "City")
DATE:	[Date of Notice]
SUBJECT:	Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]
Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:	
[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]	
Signed:	
[Signature of CPO]	

2.21.3 The CPO may issue more than one Change Order, subject to the following limitations:

2.21.3.1 The City Council expressly authorizes the CPO to approve a Change Orders up to \$50,000. A Change Order of more than \$50,000 over the approved Agreement amount must be approved by the City Council.

2.21.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.

2.21.3.3 The total of all Change Orders issued under this section may not increase the original Agreement amount by more than 25%.

2.21.4 Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The CPO's decision regarding a time extension is final.

2.21.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.

2.21.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

## 2.22 **ENVIRONMENTAL LAWS**

2.22.1 Contractor shall comply with all rules, regulations, statutes, and orders of the Environmental Protection Agency, the Texas Commission on Environmental Quality, and any other governmental agency with the authority to promulgate environmental rules and regulations (the "Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply with Environmental Laws.

2.22.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in strict compliance with the Environmental Laws. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants, or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

## 2.23 **COMPLIANCE WITH CERTAIN STATE LAW REQUIREMENTS**

2.23.1 *Anti-Boycott of Israel.* Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

2.23.2 *Anti-Boycott of Energy Companies.* Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

2.23.3 *Anti-Boycott of Firearm Entities or Firearm Trade Associations.* Contractor certifies



that Contractor does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, or will not discriminate against a firearm entity or firearm trade association for the duration of this Agreement, as defined by Section 2274.001 of the Texas Government Code.

2.23.4 *Certification of No Business with Foreign Terrorist Organizations.* For purposes of Section 2252.152 of the Texas Government Code, Contractor certifies that, at the time of this Agreement neither Contractor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor, is a company listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code as a company known to have contracts with or provide supplies to a foreign terrorist organization.

2.24 **ZERO TOLERANCE POLICY FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES**

2.24.1 The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of the Countersignature Date. Contractor shall notify the CPO, City Attorney, and the Director of any information regarding possible violation by Contractor or its subcontractors providing services or goods under this Agreement within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

2.25 **PRESERVATION OF CONTRACTING INFORMATION**

2.25.1 The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Contractor agrees that this Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. If the requirements of Subchapter J, Chapter 552, Texas Government Code, apply to this Agreement, then for the duration of this Agreement (including the initial term, any renewal terms, and any extensions), Contractor shall preserve all Contracting Information, as defined by Section 552.003 of the Texas Government Code, related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or city policy, which record retention requirements include but are not limited to those set forth in Chapters 201 and 205 of the Texas Local Government Code and Texas Administrative Code Title 13, Chapter 7. Within five business days after receiving a request from the Director, Contractor shall provide any Contracting Information related to this Agreement that is in the custody or possession of Contractor. Upon the expiration or termination of this Agreement, Contractor shall, at the Director's election, either (a) provide, at no cost to the City, all Contracting Information related to this Agreement that is in the custody or possession of Contractor, or (b) preserve the Contracting Information related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or City policy.

2.25.2 If Contractor fails to comply with any one or more of the requirements of this Section, Preservation of Contracting Information, or Subchapter J, Chapter 552, Texas Government Code, then, in accordance with and pursuant to the processes and procedures set forth in Sections 552.373 and 552.374 of the Texas Government Code, the Director shall provide notice to the Contractor and may terminate this Agreement. To effect final termination, the Director must notify Contractor in writing with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

2.26. **WAGE THEFT PREVENTION**

2.26.1. Contractor and its subcontractors shall comply with all applicable federal, state and local wage and hour laws, including the City's Wage Theft Ordinance as set out in Chapter 15, Article IV of the Code of Ordinances. Contractor shall comply with all the wage theft prevention requirements as set forth in **Exhibit "H"** Contractor's failure to comply with any applicable wage and hour law or with the wage theft prevention requirements in this Agreement shall be deemed a material breach of this Agreement.

2.26.2. Failure of Contractor to pay its employees as required by law shall constitute a default under this Agreement for which the Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.

2.26. **DUTY TO INSPECT**

2.26.1 Contractor represents that it or its agent has inspected all facilities affected by this Agreement and that it is not entitled to additional compensation for its failure to accurately account for all of the work or services to be performed under this Agreement.

**ARTICLE 3. DUTIES OF CITY**

3.01 **PAYMENT TERMS**

3.01.1 Subject to all terms and conditions of this Agreement, the City agrees to pay for the services described in **Exhibit "B"** and **Exhibit "B-1"** that are rendered by Contractor based upon monthly invoices showing the number of individual tasks and related services performed at the rates set forth in **Exhibit "F"**. The fees must only be paid from Allocated Funds as provided below.

3.01.2 Early Payment Discount. The City of Houston's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later, according to the requirements of the Texas Prompt Payment Act (Tex. Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from Contractor as follows:

Payment Time - 10 Days: 2% Discount  
Payment Time - 20 Days: 1% Discount

3.01.3 If the City fails to make a payment according to the early payment schedule above, but does make the payment within the time specified by the Prompt Payment Act, the City shall not receive the discount, but shall pay no other penalty. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following Business Day.

3.02 **TAXES**

3.02.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

3.03 **METHOD OF PAYMENT**

3.03.1 The City shall pay on the basis of monthly invoices submitted by Contractor and approved by the Director showing the services performed and the attendant fee. The City shall make payment to Contractor within 30 days of the receipt and approval by the City of such invoices. If the City disputes any item in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After any dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

3.04 **LIMIT OF APPROPRIATION**

3.04.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

3.04.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$\_\_\_\_\_ to pay money due under this Agreement during the City's current fiscal year (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds (each a "Supplemental Allocation" and collectively, the "Supplemental Allocations") for this Agreement, but they are not obligated to do so. Therefore, the Parties have agreed to the following procedures and remedies:

3.04.2.1 The City has not allocated supplemental funds or made a Supplemental Allocation for this Agreement unless the City has issued to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

**NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS**

By the signature below, the City Controller certifies that, upon the request of the Director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This Supplemental Allocation has been charged to such appropriation.

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3.04.2.2 The Original Allocation plus all Supplemental Allocations are the “Allocated Funds.” The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor’s only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

**3.05 ACCESS TO SITE**

3.05.1 Contractor may enter and leave the premises at all reasonable times without charge. Contractor and its employees may use the common areas and roadways of the premises where it is to perform the services together with all facilities, equipment, improvements, and services provided in connection with the premises for common use. This excludes parking for Contractor’s personnel. Contractor shall repair any damage caused by it or its employees as a result of its use of the common areas.

**3.06 ACCESS TO DATA**

3.06.1 The City shall, to the extent permitted by law, allow Contractor to access and make copies of documents in the possession or control of the City or available to it that are reasonably necessary for Contractor to perform under this Agreement.

3.06.2 The City does not, however, represent that all existing conditions are fully documented, nor is the City obligated to develop new documentation for Contractor’s use.

3.06.3 For any raw data created, assembled, used, maintained, collected, or stored by Contractor for or on behalf of the City, Contractor shall provide the City either the raw data itself or the ability to extract the raw data in a format mutually agreed upon by both Parties at no additional cost to the City.

## **ARTICLE 4. TERM AND TERMINATION**

### **4.01. AGREEMENT TERM**

4.01.1 This Agreement is effective on the Countersignature Date and shall remain in effect for 3 years, unless sooner terminated under this Agreement (the "Initial Term").

### **4.02. NOTICE TO PROCEED**

4.02.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the CPO or Director.

### **4.03. RENEWALS**

4.03.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for 2 successive 1-year terms on the same terms and conditions. If the Director chooses not to renew this Agreement, he or she shall notify Contractor and the CPO of non-renewal at least 30 days before the expiration of the then-current term.

### **4.04. TERMINATION FOR CONVENIENCE BY CITY**

4.04.1 The Director may terminate this Agreement at any time by giving 30 days' written notice to Contractor, with a copy of the notice to the CPO. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

4.04.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in this Agreement unless the fees exceed the allocated funds remaining under this Agreement.

4.04.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

### **4.05. TERMINATION FOR CAUSE BY CITY**

4.05.1 If Contractor defaults under this Agreement, the Director may terminate this Agreement after providing Contractor written notice and an opportunity to cure the

default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies that exist now or in the future. Default by Contractor occurs if:

4.05.1.1 Contractor fails to perform any of its material duties under this Agreement;

4.05.1.2 Contractor becomes insolvent;

4.05.1.3 all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

4.05.1.4 a receiver or trustee is appointed for Contractor.

4.05.2 If a default occurs and the Director determines that the City wishes to terminate the Agreement, then the Director must deliver a written notice to Contractor describing the default and the proposed termination date, with a copy of the notice to the CPO. The date must be at least 30 days after Contractor receives notice. The Director, at his or her sole option, may extend the termination date to a later date. If Contractor cures the default before the proposed termination date, then the proposed termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City.

4.05.3 To effect final termination, the Director must notify Contractor in writing, with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and promptly cancel all orders or subcontracts chargeable to this Agreement.

#### 4.06 **TERMINATION FOR CAUSE BY CONTRACTOR**

4.06.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 30 days after the Director receives the notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date

#### 4.07. **REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS**

4.07.1 Upon expiration or termination of this Agreement, Contractor is permitted 10 days within which to remove contractor-owned material and equipment from the City's premises. This City shall make such material and equipment readily available to Contractor. The time period may be extended upon approval by the Director. The

City reserves the right to deny any extension of time.

## ARTICLE 5. MISCELLANEOUS

### 5.01 INDEPENDENT CONTRACTOR

5.01 Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

### 5.02 FORCE MAJEURE

5.02.1 Timely performance by both Parties is essential to this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a Party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected Party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn, or other factors of general application, or an event that merely makes performance more difficult, expensive, or impractical. Force Majeure does not entitle Contractor to extra reimbursable expenses or payment.

5.02.2 This relief is not applicable unless the affected Party does the following:

5.02.2.1 uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

5.02.2.2 provides the other Party with prompt written notice of the cause and its anticipated effect.

5.02.3 The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days.

5.02.4 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

5.02.5 If the Force Majeure continues for more than 7 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

5.03 **SEVERABILITY**

5.03.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either Party.

5.04 **ENTIRE AGREEMENT**

5.04.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties with respect to this subject matter hereof. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

5.05 **WRITTEN AMENDMENT**

5.05.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

5.06 **GOVERNING LAW AND VENUE**

5.06.1 This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston. Venue for any disputes relating in any way to this Agreement shall lie exclusively in Harris County, Texas.

5.07 **NOTICES**

5.07.1 All notices to either Party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, UPS, or any other national overnight express delivery service. The notice must be addressed to the Party to whom the notice is given at its address set out in Article 1 of this Agreement or other address the receiving Party has designated previously by proper notice to the sending Party. Postage or delivery charges must be paid by the Party giving the notice.

5.08 **CAPTIONS**

5.08.1 Captions contained in this Agreement are for reference only and therefore have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

5.09 **NON-WAIVER**

5.09.1 If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the Party from later enforcing that term and all other terms. If either Party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.



5.09.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

5.10 **INSPECTIONS AND AUDITS**

5.10.1 City representatives may perform, or have performed: (i) audits of Contractor's books and records; and (ii) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least three years after this Agreement terminates. If the books and records are located outside of Harris County, Texas, Contractor agrees to make them available in Harris County, Texas. This provision does not affect the applicable statute of limitations.

5.11 **ENFORCEMENT**

5.11.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

5.12 **AMBIGUITIES**

5.12.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

5.13 **SURVIVAL**

5.13.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including, but not limited to, the indemnity provisions.

5.14 **PUBLICITY**

5.14.1 Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

5.15 **PARTIES IN INTEREST**

5.15.1 This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

5.16 **SUCCESSORS AND ASSIGNS**

5.16.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following Section. This

Agreement does not create any personal liability on the part of any officer or agent of the City.

5.17 **BUSINESS STRUCTURE AND ASSIGNMENTS**

5.17.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the Director and CPO with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

5.17.2 Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

5.18 **REMEDIES CUMULATIVE**

5.18.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies that exist now or in the future. Neither Party may terminate its duties under this Agreement except in accordance with its provisions.

5.19 **CONTRACTOR DEBT**

5.19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE OR SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR. CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

## EXHIBIT "A"

### DEFINITIONS

In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural. The word "shall" is always mandatory and not merely permissive.

1. "Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.
2. "Business Day" means any calendar day except Saturdays, Sundays and full-day holidays for employees of the City (as designated by City Council).
3. "CCTV" means Closed circuit television.
4. "Chief Procurement Officer" ("CPO") means the Chief Procurement Officer of the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.
5. "City" is defined in the preamble of this Agreement and includes its successors and permitted assigns.
6. "Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.
7. "Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.
8. "Director" means the Directors/Chiefs of each of the Departments or the City Chief Procurement Officer for the City, or the person he or she designates.
9. "Effective Date" means the date this Agreement is countersigned by the City Controller.
10. "Emergency" means an immediate threat to life, or an immediate threat to the safety of any person on or in a Facility.
11. "Facility" means a City of Houston building, property or premise identified in **Exhibit "B-1"**.
12. "Facility Manager" means the City employee in charge of a particular Facility.
13. "GSD" means the City of Houston General Services Department.
14. "HPW" means the City of Houston Public Works Department.
15. "Incident report" means the report required to be filed to document events or conditions on City property that represent a security concern, as further defined in **Section 19.2 of Exhibit "B"**.
16. "Notice to Proceed" means a written communication from the Director or the CPO to Contractor instructing Contractor to begin performance.

17. "Party" or "Parties" means one or all of the entities set out in the Preamble who are bound by this Agreement.
18. "Revenue locations" means a property or facility where cash handling occurs and to which Security Officers are assigned pursuant to this Agreement or which may be established during the term of this Agreement.
19. "Security Officer" means trained, equipped, and qualified employees of Contractor assigned to security officer duties as required by this Agreement.
20. "Site" means a property or facility to which Security Officers are assigned pursuant to this Agreement or which may be established during the term of this Agreement. Current Sites are listed in **Exhibit "B-1"**.
21. "Post orders" means written procedures, policies, and guidelines used by the Contractor in day-to-day operations that will be provided to the City for approval.

## EXHIBIT "B"

### SCOPE OF SERVICES

#### 1.0 SCOPE OF WORK

- 1.1 The Contractor shall provide competent, fully qualified Security Officers as well as the necessary equipment and supervision to provide high quality Security Officer services at the Facilities. Contractor will supervise Security Officers for all shifts as directed by the City. Contractor will provide Security Officers for assignment to duties and locations as described in **Exhibit "B-1"** or other times or locations designated by the City. Contractor agrees that the schedules set forth in a staffing plan may be changed at any time, without any penalty to the City, provided the City gives at least twenty-four (24) hours' notice of the change.
- 1.2 The Contractor agrees that the Services to be performed, including the locations where and the hours during which Services are to be performed, and the number of Security Officers to be furnished by the Contractor, shall be subject to the approval of the Director.
- 1.3 The Contractor shall make periodic oral or written reports and recommendations to the Director, with respect to conditions, transactions, situations or circumstances encountered by the Contractor relating to the services to be performed under this Agreement and attend meetings determined to be necessary by the Director. Contractor shall provide any reports that the Director, may request in writing.
- 1.4 Within ten (10) days of the Countersignature Date of the Agreement, the Contractor shall provide a complete company profile, a copy of its written procedures that regulate its prompt and proper response to incidents, emergency contingencies, and contacting supervisors, and a copy of its current State of Texas Security License to the Director.

#### 2.0 INITIAL DELIVERABLES

##### 2.1 Phase-In

- 2.1.1 The Contractor shall be prepared to accomplish a smooth and successful transition of operations and services and shall have up to a 30-day phase-in period. The Contractor's Phase-In Period shall begin upon receipt of a Start Phase-In Notice from the CPO (such notice not to be construed as an official Notice to Proceed, but being anticipatory of phase-in only) and shall last approximately 30 days preceding the receipt of Notice to Proceed. The incumbent contractor shall be responsible for performing the duties and services listed in its contract during Contractor's Phase-In Period. During the Phase-in Period, the Contractor shall arrange to have necessary supervisory, technical, and other personnel on site to observe the operation of the Security Officer Services. The Contractor may use this Phase-In Period to recruit and transfer personnel, train personnel, arrange for security badging, establish management procedures, set up records, ensure adequate equipment is in place for security operations,

and otherwise prepare for the assumption of control without disruption of operations. During the Phase-In Period, it shall be the responsibility of the Contractor to develop and implement a full project schedule detailing the responsibilities of assigned personnel and submit it to the Director, for its approval. The Contractor shall have no responsibilities for operating or maintaining the Security Officer Services during the Phase-In Period. The Phase-In Period shall end on the date set forth in the official Notice to Proceed, at which time the Contractor shall assume full responsibility for the operations of the Security Officer Services.

## 2.2 Post Orders

2.2.1 Within fifteen (15) Days of the Effective Date, the Contractor shall deliver to City draft comprehensive Post Orders for all designated Sites for City's review and approval. The City shall review and return same to the Contractor with instructions for revisions. The Contractor shall prepare completed and approved Post Orders and submit them to the City within ten (10) days of receipt of City revisions. Final Post Orders approved by the Director are incorporated by reference and shall become part of the Agreement as though fully set forth.

2.2.2 Post Orders shall remain in effect until altered by the Director. The Director, may alter or amend all or any part of the existing Post Orders by notifying the Contractor via email. Amended Post Orders shall take effect at 8:00 a.m. on the second day following their delivery by the City or at such earlier or later date as ordered by the Director. The Director may alter the Post Orders at any time during the term of the Agreement. Post Orders shall include, but are not limited to:

2.2.2.1 General Safety Procedures

2.2.2.2 Emergency Procedures (including contact lists), to include:

2.2.2.2.1 Fire

2.2.2.2.2 Medical Emergencies

2.2.2.2.3 Elevator Malfunction/ Entrapment

2.2.2.2.4 Power Outages

2.2.2.2.5 Weather Emergencies

2.2.2.2.6 Civil Disturbance/ Lockdown

2.2.2.2.7 Active Shooter

2.2.2.2.8 Suspicious Person/ Unauthorized Access/

Trespassers

2.2.2.2.9 Suspicious Package

2.2.2.2.10 Bomb Threats

2.2.2.3 Investigation, Incident and Emergency Report Procedures and Forms

2.2.2.4 Shift Patrol Procedures

2.2.2.5 Communication Procedures

2.2.2.6 Dress and Grooming Standards

2.2.2.7 Training Procedures including harassment training

2.2.2.8 Photographs and diagrams of each Site.

2.2.2.9 Human Resources Policies and Hiring and Disciplinary

## Procedures

### 2.4 Training Plan

2.4.1 No later than ten (10) Days after the Notice to Proceed date, the Contractor shall provide the City with a draft Training Plan consisting of the following: (i) the proposed curriculum for each required subject matter; (ii) the dates, times, and location of each block of instruction; and (iii) a resume for each instructor must be submitted seven days prior to the commencement of training. The City shall review and return the draft Training Plan to the Contractor with any instructions for revisions. The Contractor shall deliver the completed Training Plan to the City for its approval prior to the commencement of training required by proposed Agreement. The final approved Training Plan is incorporated by reference and shall become part of the Agreement as though fully set forth herein. This training shall be documented, and such documentation shall be available upon request to the Director. The Director, reserves the right to review all training documentation without prior notice.

2.4.2 In addition to the initial training required above, the Contractor shall provide 16 hours of training each year of the Agreement to all Security Officers used in performance of the Agreement. The Training shall include but is not limited to CPR, First Aid, Report Writing, Customer Service Skills, De-escalation Techniques, Mayor's Emergency Coverage Procedures (i.e. Weather Emergencies, Civil Service, Pandemic, Riot, etc.), NIMS, Discrimination/Sexual Harassment, Cultural Sensitivity, and Disability Awareness Training.

2.4.3 The Contractor shall ensure that all security personnel have satisfactorily completed the training specified herein before reporting for work on any post, to include, Rapiscan for all security officers assigned to scanner locations. Contractor shall notify the Director, of date, time, and place of scheduled training sessions. City Representatives may monitor training sessions. The Contractor shall test its personnel and provide the Director, with the test results.

2.4.4 The Contractor shall ensure that all project managers, supervisors, and professional security officers are thoroughly familiar with all applicable rules, regulations, and procedures before they are allowed to staff any post in the Facility. All personnel shall be properly trained in the operation of the Facilities and shall adhere to the Facility rules and regulations without exception.

### 2.5 Proof of Training

#### 2.5.1 Individual Security Officers

2.5.1.1 Prior to assignment of any Security Officer, The Contractor shall provide proof of required training for that Security Officer. Such proof shall include an affidavit of training, on a form to be approved by the Director, signed by the Contractor and the

Security Officer certifying that each type of training required by this Agreement has been completed.

2.5.2 All Security Officers

2.5.2.1 Within thirty (30) Days of the Effective Date of the Agreement, the Contractor shall provide proof of having completed required training of each and every Security Officer assigned to this Agreement.

2.5.3 Training

2.5.3.1 The Contractor shall provide proof of attendance for at least sixteen (16) hours of annual training with attendance sheets signed off by Security Officers participating in training, along with the day, time, duration and training subject matter, to include Discrimination/Sexual Harassment Training, and Cultural Sensitivity Training. Proof of attendance shall be submitted quarterly to the City.

2.5.4 Affidavits

2.5.4.1 Falsified affidavits of training shall be grounds for immediate removal and replacement of a Security Officer. The Contractor is responsible for verifying the truth and accuracy of each affidavit. The Contractor agrees that failure to verify training affidavits is a material breach of the Agreement.

2.6 Proposed Uniform Design

2.6.1 The Contractor shall submit proposed Security Officer uniform designs to the City for approval within ten (10) Days of the Effective Date.

2.7 Supervisor Contact List

2.7.1 Upon the Effective Date, the Contractor shall provide a contact list with 24- hour contact information (phone or pager) for all Supervisor

2.8 Report Templates

2.8.1 Upon the Effective Date, the Contractor shall provide to City templates for all reports that are required by this Agreement (Emergency Reports, Training Affidavits, Incident Reports, Security Officer Timesheets, Lost/Stolen Item Reports, a Daily Security Report (DSR), Armed Security Officer Daily Report, Observer Reports, monthly invoice, and a matrix of Planned/Unplanned Scheduled Events to track date/time of event, location, number of security officers, hours of service, etc.) for City approval. The final approved report templates are incorporated by reference and shall become part of the Agreement as though fully set forth herein.



### **3.0 CONTRACTOR DUTIES**

#### **3.1 General Security Officer Duties**

3.1.1 The Contractor shall provide and supervise Security Officers to provide Services for all shifts and Sites for which Security Officers are required by this Agreement or requested by the City. The Contractor shall make their best efforts to assign Security Officers consistently to certain Sites so that Security Officers become more familiar with the procedures and authorized persons associated with that Site.

3.1.2 Security officers shall be provided to perform the following duties at all Sites in accordance with the Standard Operating Procedures unless otherwise provided in the Agreement or as instructed by City:

3.1.2.1 Protect the safety of persons on the Site;

3.1.2.2 Prevent and minimize fire, theft, damage and trespass on City properties;

3.1.2.3 Prohibit entry into secure Sites by anyone other than persons carrying valid City identification or as otherwise instructed by City;

3.1.2.4 Report any unusual incidents or hazardous conditions;

3.1.2.5 Maintain a daily log for each shift in accordance with all policies for the Site (e.g. sign in and sign out requirements for visitors);

3.1.2.6 Complete rounds of assigned facilities as required for each Site to ensure that all access doors are secure;

3.1.2.7 Maintain log of all security violations and report occurrences to City Security as quickly as possible considering the nature of the violation;

3.1.2.8 Monitor security desk consoles (*i.e.*, employee access control and alarm computer, CCTV video monitors, DVRs); as well as:

3.1.2.8.1 Security officers shall be familiar with and implement emergency fire or fire alarm procedures including familiarity with floor plans with locations of fire alarm pull boxes, fire extinguishers, fire alarm monitoring panel and other life/safety systems;

3.1.2.8.2 Security officers shall be familiar with and implement emergency intrusion alarm procedures including the use of computer programs, closed circuit television monitors, voice intercom systems, alarms and alarm enunciator panels, and other equipment required for monitoring and control of building access;

- 3.1.2.8.3 Security officers shall be responsible for all building and systems keys in their possession and shall account for the whereabouts of keys at all times. Keys shall not be loaned to anyone for any reason. If keys are lost or stolen, Security officers shall notify the Contractor within two hours, and Contractor shall notify City immediately upon receiving the Security officer's report so that appropriate action can be taken to safeguard the premises. A police report must also be filed prior to the end of shift. The Contractor is responsible for the cost of replacement of lost, stolen or damaged keys.
- 3.1.2.8.4 In addition to responsibility of systems keys, shall also be responsible to ensure keys are operational (i.e. cyber key is charged and programmed).
- 3.1.3 Security officers shall be familiar with and implement procedures and protocols for responding to medical emergencies, elevator entrapments, bomb threats, riots, fires, earthquakes, hazardous spills, floods and other emergencies.
- 3.1.4 Security officers shall be familiar with and implement procedures for receiving and forwarding requests for maintenance.
- 3.1.5 Security officers shall not use city telephones or cell phones except as required to perform their duties, and may not use or be in possession of any personal electronic devices or reading materials not related to Security Officer duties at a Site.
- 3.1.6 Security officers shall, at all times, be attentive to their surroundings, and knowledgeable of all facility staff members.
- 3.1.7 Security officers shall, at all times, be polite, courteous, respectful, and responsive to any person authorized to be on the Site.
- 3.1.8 Security officers shall not be engaged in or conduct any personal business or business outside those described in this Agreement at any time while assigned to perform Services except for authorized breaks.
- 3.1.9 Security officers shall only carry weapons as authorized by the Director.
- 3.1.10 Security officers shall not eat at their assigned post. Bottled water may be kept at a security post but should be kept out of sight whenever possible and should not be consumed while conducting business with any person at the security post.

### 3.2 Facility Patrols

3.2.1 Security officers shall patrol the grounds of City Property and as requested by City to prevent trespassing, vandalism, sabotage, injury and liability in accordance with the Facility Patrol Plan.

### 3.3 Employee Access Controls

3.3.1 Security officers shall monitor the access of employees and members of the public to City property and as requested by City. During business hours, most facilities allow employees access to all work areas except for secured and restricted areas (e.g. certain parts or tools storage areas, dispatch offices, and Central Control). Control of employee access to restricted areas during and after work hours is accomplished through a card access / reader system. Security officers shall notify the Contractor no later than the end of the shift during which any cards in the possession of Security officers at the Site are lost or stolen or if any card reader is not working properly and the Contractor shall notify City immediately upon receiving the Security officer's report. The Contractor is responsible for the cost of the replacement of lost, stolen or damaged cards in the possession of the Contractor's employees.

### 3.4 Failure to Perform Security Officer Duties

3.4.1 Any acts of vandalism, sabotage or theft of City vehicles, buildings or equipment that is the direct result of the Contractor, or the Contractor's agents or representatives, failing to perform shall result in a credit to the City of up to 100% of the cost of repair or replacement of the lost, damaged or stolen asset, plus all applicable City administrative costs and overhead.

## 4.0 **UNIFORMS**

### 4.1 Uniforms to be Supplied

4.1.1 The Contractor shall furnish, at no cost to the employee, all uniform items for all Security officers provided to perform the Services, including outdoor clothing appropriate for the weather and season, with necessary safety clothing and equipment. All Security Officers must wear a complete uniform of the type required by this Section at all times while on duty. When reporting for duty, Security Officers' shoes must be shined, all uniform items must be tailored to fit well, be clean and pressed, and must present a professional image to the public.

### 4.2 Uniform Designs

4.2.1 All Security officers shall wear the same color and style of uniform.

4.2.2 Hard uniform design shall be a police/military style uniform subject to the approval of the Director. Any changes to uniform design or color required by the City shall be made at no additional cost to the City.

- 4.2.3 Security Officers working posts at City Hall, City Hall Annex, and 611 Walker shall be provided, at contractor's expense, a soft uniform to include a blazer jacket. The blazer shall be worn by all security officers working posts inside City Hall, City Hall Annex, and 611 Walker during normal business hours. Blazers shall be optional after 5:00 pm weekdays, on weekends, and on Holidays.
- 4.2.4 Security Officers that work at water plant posts shall be provided, at contractor's expense, black tactical pants, dark blue polo style shirt, boots, and winter jackets and rain gear, (bearing the Contractor's name and insignia), sunblock, insect repellent, and bottled water.

#### 4.3 Uniform Items

- 4.3.1 The Contractor shall issue to all Security Officers, at contractor's expense, either a hard look uniform, a soft line, or a tactical style uniform as dictated by the post assignment.

- 4.3.1.1 Hard uniform items shall include, at a minimum:

- 4.3.1.1.1 Shirts (long and short sleeve), qty. 6

- 4.3.1.1.2 Trousers, qty. 3

- 4.3.1.1.3 Black garrison style belt, qty. 1

- 4.3.1.1.4 Cap, qty 1

- 4.3.1.1.5 Jacket (cold weather use), qty. 1

- 4.3.1.1.6 Light jacket, qty. 1

- 4.3.1.1.7 Rain gear in bright yellow or orange with "Security" printed on back, qty. 1

- 4.3.1.1.8 Belt keepers (for armed posts)

- 4.3.1.1.9 Name plate, gold or silver (over left breast pocket, first initial and last name) and City -issued photo I.D. badge

- 4.3.1.1.10 Keys with key holder

- 4.3.1.1.11 Contractor's insignia shoulder patch (each shirt and jacket)

- 4.3.1.1.12 Black shoes or boots, leather

- 4.3.1.2 Soft uniform items shall include, as a minimum:

- 4.3.1.2.1 Shirts (long and short sleeve), qty. 6

- 4.3.1.2.2 Trousers, qty. 3
- 4.3.1.2.3 Black garrison style belt, qty. 1
- 4.3.1.2.4 Black shoes or boots, leather, qty. 1
- 4.3.1.2.5 Blazer, qty. 2
- 4.3.1.3 Tactical style uniforms shall include, at a minimum:
  - 4.3.1.3.1 Polo style shirts, qty. 6
  - 4.3.1.3.2 Tactical black pants, qty. 3
  - 4.3.1.3.3 Black garrison style belt, qty. 1
  - 4.3.1.3.4 Black shoes or boots, leather, qty. 1
  - 4.3.1.3.5 Hat, qty. 1
  - 4.3.1.3.6 Rain gear, qty. 1
  - 4.3.1.3.7 Jacket (cold weather use), qty. 1
  - 4.3.1.3.8 Light jacket, qty. 1

## **5.0 EQUIPMENT**

- 5.1 The Contractor shall issue to all Security Officers, at contractor's expense:
  - 5.1.1 Flashlight and batteries.
  - 5.1.2 Flashlight holder, black, ring or snap style.
  - 5.1.3 Whistle (thunder type) with chain attachment.
  - 5.1.4 .38 Caliber handgun, or greater, for armed Security officers, and an appropriate holster or shotgun, if requested by the City.
  - 5.1.5 Cellular device for all Supervisors and posts, with camera and GPS tracking of the officer's location while on duty.
  - 5.1.6 All other equipment determined by Contractor to be necessary to the successful performance of the Services.

## **6.0 OTHER EQUIPMENT**

- 6.1 Supervisor Vehicles
  - 6.1.1 The Contractor shall have vehicles assigned to on-duty supervisors so

that the supervisors may meet with the Director, within 45-minutes of being summoned. Additionally, the Contractor shall provide vehicles for use by Security Officers if required in the Location Security Requirement List for a particular location. This requirement is in addition to any other requirements of this Agreement. All vehicles shall be licensed to operate on public streets, shall have 4-cylinder or larger engines and shall provide their driver with protection from the weather. Each vehicle shall be clearly marked as a security vehicle. Each vehicle provided shall be in safe operating condition and shall be maintained and operated solely by the Contractor

## 6.2 Other Vehicles

6.2.1 The Contractor shall provide a car, truck, 4x4 truck, sport utility vehicle, golf cart, three-wheel Segway or bicycle (Vehicle) within five (5) working days when requested to do so for a particular facility. Subject to the Director's approval of the make, the model features of the Vehicle, lease rate and markup, the Contractor may invoice the lease cost of these Vehicles, as a bi-weekly pass-through plus an approved percentage markup. All other costs associated with the operation of Vehicles, including insurance and maintenance, are the sole responsibility of the Contractor. Any safety requirements to operate requested vehicle shall be the responsibility of the Contractor.

## 6.3 Scanners

6.3.1 The Contractor shall provide sufficient hand-held scanners to perform its services described herein, subject to the pre-approval of the make, model and features by the Director.

## 6.4 Security Officer Tour Patrol System

6.4.1 The Contractor shall provide Security Officer Tour Patrol System, which is an electronic system for logging the rounds of security officers in a variety of situations such as patrolling property. The system must ensure that the Security Officer makes his or her appointed rounds at correct intervals and can generate written and electronic tour records as required.

## 6.5 Parking and Transportation

6.5.1 Security Officers working posts in City Hall, City Hall Annex, 611 Walker, 1200 Travis, 500 McKinney, and 1400 Lubbock shall be provided, at contractor's expense, a parking pass or METRO bus passes, at the preference of each officer. The parking location shall be within a 5-block radius of those locations.

## **7.0 LOCAL FULL-SERVICE OFFICE**

7.1 The Contractor shall maintain a base, full-service office within the Greater Houston area. A full-service office shall be defined as having full time personnel

dedicated to Human Resources and recruiting; payroll and payroll corrections; field supervision and scheduling; training; and management. The Contractor shall provide a phone number(s) and pager, or cell phone numbers at which the Contractor or a designated agent of the Contractor with supervisory and managerial authority to add or delete services, equipment, security officers, restore open posts, resolve billing issues and disputes who may be reached or respond within 30 minutes on a 24-hour, 7-days per week basis during the week, weekends, nights, and holidays all year round.

## **8.0 SITES**

### **8.1 Requested Locations**

8.1.1 The Contractor shall provide armed and unarmed Security officers at any location within the City and County of Harris within four (4) hours of the City's request.

### **8.2 Regular Locations**

8.2.1 The Contractor shall provide regular security officer services at the Sites set out in **Exhibit "B-1"** in accordance with the schedule determined.

### **8.3 Future Sites**

8.3.1 The City reserves the right during the term of the Agreement to add Sites or to eliminate any Site.

## **9.0 PERSONNEL**

### **9.1 Contractor Responsible for Personnel**

9.1.1 The Contractor shall provide adequate numbers of trained and qualified personnel to fully staff all posts for all locations for which Security Officer Services are required to be provided. All Security officers must be employees of the Contractor or subcontractors. Hiring, training, payment of wages and benefits, uniforms, equipment, supervision, transportation costs, direction, and discharge of Security Officers shall be the responsibility of the Contractor. The payment of federal, state, and local taxes and all wages shall be the responsibility of the Contractor. The Contractor shall be responsible for complying with all required federal, state and local employment laws and regulations. The City may request the Contractor to remove any Security Officer from its premises at any time it desires and for any reason. The Contractor shall provide Relief for Security Officers who are on authorized breaks or leaves.

### **9.2 Removal without Cause**

9.2.1 The City may request the Contractor to remove any Security Officer from performing Services at any time it desires and for any reason. The Contractor shall remove and replace personnel within 24 hours when

requested by the City.

9.3 Removal with Cause

9.3.1 The Contractor shall remove a Security Officer within thirty (30) minutes and replace the Security Officer within four (4) hours of the City's request for any cause or condition that renders the Security Officer incapable of performing their duties, which shall include but is not limited to: Sleeping on duty, theft, alcohol or illegal drug use. The Contractor shall remove and replace personnel within 24 hours for other violations or performance failures set forth in the Agreement, when requested by the City.

9.4 Reassignment, Augmentation, and Reduction of Workforce

9.4.1 Immediately upon the City's request, the Contractor shall reassign Security Officers, and such reassignment shall be at no cost to the City. If the City's need for Services increases or decreases the number of Security Officers required to fulfill, the City's cost shall be based on actual hours of Services provided at the billing rates in the Fee Schedule set out in **Exhibit "F"**.

9.4.2 The Contractor shall reassign or remove particular Security Officers from assignment to the Facilities upon receipt of a written or oral request from the Director, to do so. The written or oral request shall specify the name of the Security Officer whose assignment or removal is desired. Any person that the Director, may deem incompetent or disorderly shall be promptly removed by the Contractor. The Contractor shall replace any removed employee, should the Director, recommend that the action be done for the good of the services being rendered, within 30 minutes from notification by the City.

9.4.3 The Contractor shall maintain a force of trained contingency officers not assigned to locations covered under this Agreement. The number shall be equal to or greater than 5% of the full-time equivalents covered under this Agreement. Security officers must be trained and familiar with the City expectations and shall have completed pre-assigned training as agreed to under this Agreement. The Contractor shall submit a list of officers in reserve on a quarterly basis.

**10.0 TYPES OF CLASSIFICATIONS**

10.1 Non-commissioned Security Officer

10.1.1 A non-commissioned Security Officer employed by the Contractor to provide Security Officer service under this Agreement shall meet the following criteria unless approved or authorized by the Director:

10.1.1.1 Must be at least twenty-one (21) years of age.

10.1.1.2 High school graduate or must have obtained a Graduate



Equivalency Diploma (GED).

- 10.1.1.3 Security Officers shall have the ability to speak, read, write, understand and properly use documents written in English. Failure to do so shall result in immediate dismissal and the officers shall be replaced immediately at no additional cost to the City.
- 10.1.1.4 Security officers shall be skilled to effectively and tactfully communicate with a wide variety of people in sensitive situations, and skilled in establishing and maintaining effective working relationships with City employees and the general public.
- 10.1.1.5 The Contractor shall communicate all written materials provided by the City to Security Officers, including rules, procedures, regulations, guidelines and instructions, and shall ensure that Security Officers adhere to the standards set forth in such materials.
- 10.1.1.6 A minimum of six (6) months' previous experience providing Commissioned or Noncommissioned Officer service, or experience deemed comparable by the Director.
- 10.1.1.7 Trained to provide Security Officer services.
- 10.1.1.8 Knowledgeable about the Facility being secured, i.e., locations of exits, restrooms, fire hydrants, fire standpipes, fire extinguishers, emergency panels (if any), emergency operation of elevators (if any), evacuation procedures, and similar aspects.
- 10.1.1.9 Must check in at each checkpoint designated in the post orders, or attachments to the post orders such as maps or drawings, and otherwise remain at its designated post throughout the entire designated shift unless relieved by a relief or replacement guard.
- 10.1.1.10 Trained to perform duties in a complex the size of the City locations.
- 10.1.1.11 Officers must be commissioned or registered with the Texas Board of Private Investigators and Private Security Agencies, pursuant to the authority of Chapter 1702, Texas Occupations Code (Contractor shall provide copies of all security commission cards within five days from request by the City).
- 10.1.1.12 Any additional licensing or training required under state or local regulations.
- 10.1.1.13 Bilingual (Spanish/English) skills are preferred.

10.1.1.14 The Contractor must have and maintain a Texas Department of Public Safety security services contractor's license under Chapter 1702, Texas Occupations Code.

10.2 Commissioned Security Officer

10.2.1 A Commissioned Security Officer employed by the Contractor shall have a valid, commissioned security officer license with the state of Texas, and meet the qualifications of a Security Officer unless approved or authorized by the Director, AND:

10.2.1.1 Have a minimum of three (3) years' experience as a commissioned security officer in a similar environment as approved by the Director; or

10.2.1.2 Prior military experience with an honorable discharge; or

10.2.1.3 Prior law enforcement experience; or

10.2.1.4 Prior State or Federal Corrections experience with a Government; or

10.2.1.5 A bachelor's degree or higher in a related field.

10.3 Supervisor

10.3.1 Supervisors employed by the Contractor shall meet the qualifications of a Commissioned Security Officer unless approved or authorized by the Director, and;

10.3.2 A minimum of two (2) years' supervisory experience.

10.4 Project Manager

10.4.1 A Project Manager employed by the Contractor shall meet the qualifications of a Security Officer unless approved or authorized by the Director, and;

10.4.2 At least five (5) years' supervisory experience with two (2) years managing a multi-site location or a large single site operation of greater than 20 full time security personnel under their management authority.

10.5 The following personnel shall not be qualified to work as Security Officers in any capacity:

10.5.1 Felony convictions in any jurisdictions unless a full pardon has been granted.

10.5.2 Class A misdemeanor convictions(s) during the last ten (10) years.

- 10.5.3 Misdemeanor convictions in any jurisdiction involving moral turpitude during the seven (7) year period preceding the date of application unless a full pardon has been granted for the conviction.
- 10.5.4 Pending, unresolved, or unadjudicated felony or Class A or B misdemeanor charges or indictments in this or any other jurisdiction, and not be on probation or parole for any felony or Class A or B misdemeanor.
- 10.5.5 Sex offenders.
- 10.5.6 Individuals with outstanding warrants.
- 10.5.7 Declared by any court of competent jurisdiction of being incompetent by reason of mental defect or disease without having been restored.
- 10.5.8 Suffering from habitual drunkenness or from narcotics addiction or dependence.
- 10.5.9 Discharged from the armed services of the United States under other than honorable conditions.
- 10.6 Should any employee be found unqualified for the position to which he/she is assigned, the Contractor shall remove such employee immediately and provide a replacement within four (4) hours at no additional cost to the City.
- 10.7 The City shall not pay for any Service provided by Contractor's employees who does not meet the qualifications set forth herein. In the event that the City discovers, at any time, that it has already paid the Contractor for Services provided by an unqualified employee of the Contractor, the Contractor shall refund any such payment to the City within ten (10) business days of notification by the City. The City may, at its option, deduct an equal amount from any payment due or to become due to the Contractor under this Agreement or any other agreement.

## **11.0 IDENTIFICATION CARD REQUIREMENTS**

- 11.1 Contractor Issued Identification Card
  - 11.1.1 All Security Officers shall be required to carry and have clearly displayed on their person, a photo identification (ID) card (commission or registration), issued by the Contractor, at all times when on City property. This card shall include the company name, first and last name of officer, with the name typewritten or printed in black, a recent photograph of the employee, and the date of completion of commission class.
- 11.2 State Requirement
  - 11.2.1 In accordance with this Agreement all Security Officers shall maintain at all times and on their person a valid Texas Security ID issued by the Texas Department of Public Safety Private Security Bureau while working

on City property.

### 11.3 City Requirements

11.3.1 In accordance with the City Executive Order No. 1-37, as amended from time-to-time, all Security Officers assigned to work on City property shall possess and maintain a City issued contractor ID. Upon separation, the Security Officer's ID shall immediately be returned to the Office of Security Management for deactivation and verification.

11.3.2 A copy of the actual commission cards, for Commissioned Officers, shall be held by the Contractor for a minimum of six (6) months after the Security Officer becomes commissioned and shall be available for inspection, upon request, by the Director.

11.3.2 In addition, the Director, may at any time ask the Contractor to submit to the City, a list of all Security Officers working on any specified day, for a random check of commission verification.

11.4 Security Officers shall have on their person a valid CPR/AED training certification card while on duty.

## 12.0 **TRAINING REQUIREMENTS**

### 12.1 Pre-Assignment

12.1.1 All retained, incumbent employees working City posts shall be allowed 60 days after the Agreement start date to complete the pre-assignment training. All new employees shall be required to have completed this training prior to being assigned to any shift. This shall consist of twenty-four (24) hours of training as outlined in **Section 12.2.1 of this Exhibit**.

12.1.2 All Security Officers, retained and new, that are assigned to scanner locations shall have completed Rapiscan training prior to being assigned to any shift.

### 12.2 On -the-Job-Training

12.2.1 All retained, incumbent employees working City posts shall have to undergo eight (8) hours of on-the-job specific training. All new employees shall undergo sixteen (16) hours of on-the-job specific training.

### 12.3 Ongoing Training Requirements

12.3.1 The Contractor shall ensure that training as described in **Section 12.2.1 of this Exhibit** is conducted annually or when a Contractor hires any new Supervisor, Commissioned Security Officer or a group of ten (10) Noncommissioned Security Officers within a given quarter. The City reserves the right to test Security officers' knowledge of the training curriculum.

12.3.2 The Contractor shall ensure that all Security Officers have completed an Anti- Discrimination and Harassment Course (4 hours) within one (1) year of assignment.

12.3.3 Incursion drills shall be completed on all posts that have Rapiscan equipment. Drills shall be held on a semi-annual basis. Unknown company representative shall test the operator by placing a disallowed item in a bag to be run through the machine. Security Management shall be notified prior to the drill and shall have a rep on site. Results shall be a simple pass/fail. Failed tests shall result in immediate removal from post.

#### 12.4 Training Waivers

12.4.1 The Contractor may request the training requirement to be waived for a particular Security Officer if Contractor submits adequate documentation to demonstrate that the Security officer's skills already exceed the training requirements and the Director, approves the waiver request.

### 13.0 **LIMITATIONS ON SECURITY OFFICERS' HOURS**

13.1 The Contractor shall not assign any Security Officer to perform services under this Agreement if such assignment would require that the Security Officer work more than 14 hours in a 24-hour period, or more than 60 hours in a single 7-day period, unless the Contractor obtains the prior written approval of the Director. The contractor shall have sufficient personnel reserved who are trained, in order to comply with this requirement. This is to ensure that a speedy and correct response is performed in the event of an Emergency or life-threatening situation that could occur at the Facilities.

### 14.0 **RESPONSE TO INCIDENTS**

14.1 The Contractor shall immediately contact the Director, as well as the Facility Managers, the Houston Police Department, or other appropriate agency regarding any incident involving injury, fire, or criminal activity, or threats thereof. The primary duties of the Security Officers are to observe and report. Security Officers covered under this Agreement shall not subdue or pursue any suspected perpetrators. Any incident, whether Emergency or otherwise, shall be reported in writing to the Director, by close of business on the first business day immediately following the incident.

### 15.0 **DUTIES**

15.1 Noncommissioned Security Officers

15.1.1 Duties shall be defined by the post location.

15.2 Commissioned Security Officers

15.2.1 Duties shall be defined by the post location.

15.3 Duties of Armed Security Officers and Commissioned Security Officers when Assigned to a Screen Site.

15.3.1 When an Armed Security Officer is assigned to a screening site, the Armed Security Officer shall monitor and direct the activities of the Scanner Operator(s) assigned to that site. The Armed Security Officer shall:

15.3.1.1 Direct personnel entering facility to the proper screening site;

15.3.1.2 Monitor the flow of personnel, and not allow persons to avoid the screening site;

15.3.1.3 Assist the Scanner Operators in their duties when required by the flow of traffic;

15.3.1.4 Prohibit personnel from entering the protected facility with illegal weapons or devices;

15.3.1.5 When assigned to a secondary entrance, check badges and conduct hand screening of persons using those entrances;

15.3.1.6 Write and submit complete reports for all appropriate incidents (All reports shall be delivered to the GSD Security Management Division by 9:00 am on the following workday);

15.3.1.7 Staff a scanner position when required; and

15.3.1.8 Complete all seized property procedures as approved by the Director.

15.1.9 Daily Activity Reports are required to be completed at the end of every shift.

15.4 Duties of the Scanner Operator

15.4.1 The Scanner Operator shall staff either an x-ray screening device or a magnetometer and shall:

15.4.1.1 Set up and maintain guide ropes or other barriers leading from the entrance to the screening site;

15.4.1.2 Start and calibrate the magnetometer and x-ray device at the beginning of each shift;

15.4.1.3 Courteously and professionally direct persons entering the facility to the screening site;

15.4.1.4 Identify those personnel who are properly badged and admit them in accordance with the Post Orders;

- 15.4.1.5 Courteously and professionally direct persons entering in how to move through the screening site, including placing hand-carried items and packages on the x-ray conveyor;
- 15.4.1.6 Monitor the flow of traffic through the site to ensure effective coverage with the least inconvenience possible to person entering.
- 15.4.1.7 While staffing the x-ray device, effectively screen items that travel through the machine. This may include reorienting items, identifying suspicious items, and directing hand searches of appropriate items.
- 15.4.1.8 While staffing the magnetometer, have persons entering walk through the device after removing metal items from their persons. If the magnetometer alarms, the Scanner directs the individual to remove any remaining metal items, and walk through the device again. If the device alarms a second time, the scanner shall use hand-held magnetometer to conduct hand screening to determine the cause of the alarm. Ensure the property of the person(s) who are directed aside is secured.
- 15.4.1.9 When contraband, weapons, or suspected explosive devices are discovered, the discovering Scanner Operator shall notify the Houston Police Department, the armed Security Officer and the Supervisor, and take other actions appropriate to the situation.
- 15.4.1.10 At the end of the working day, secure the magnetometers, x-ray devices, and any other equipment or supplies used.
- 15.4.1.11 Daily Activity Reports shall be completed at the end of every shift.

## 15.5 Duties of the Command Center Operator

- 15.5.1 The Contractor's Command Center Operator shall be responsible for the following tasks:
  - 15.5.1.1 Use of a computer-aided dispatch system to receive non-emergency calls requesting security services;
  - 15.5.1.2 Determine the nature and location of non-emergencies;
  - 15.5.1.3 Determine priorities of calls and dispatch security units as necessary and in accordance with established procedures;
  - 15.5.1.4 Maintain contact with all units on assignment in the field;
  - 15.5.1.5 Maintain status and location of security units;

- 15.5.1.6 Enter, update and retrieve information from a variety of computer systems;
- 15.5.1.7 Process requests for information from security personnel;
- 15.5.1.8 Monitor several public safety radio frequencies;
- 15.5.1.9 Operate a variety of communications equipment, including radio consoles, telephones and computer systems;
- 15.5.1.10 Manage and monitor closed circuit television (CCTV) equipment;
- 15.5.1.11 Preparing and maintaining accurate records and logs of all radio transmissions, telephone calls and other records, files and information systems;
- 15.5.1.12 Performing data-entry tasks to process or update information accurately via a computer program;
- 15.5.1.13 Operate a computer inquiry terminal to obtain information on persons and vehicles through related database systems;
- 15.5.1.14 Answer questions and provide information as requested;
- 15.5.1.15 Make entries into automated record files;
- 15.5.1.16 Relate information effectively to those contacted in the course of work;
- 15.5.1.17 Prepare reports as required or requested;
- 15.5.1.18 Display good judgment and sound decision making in both routine and high stress situations; and
- 15.5.1.19 Daily Activity Reports are required to be completed at the end of every shift.
- 15.5.1.20 Other duties as assigned.

## 15.6 Supervisors

- 15.6.1 Each Supervisor of an upcoming shift shall, prior to shift change, determine the readiness of Security Officers preparing to be posted and ensure adequate number of properly uniformed and equipped Security Officers are available for the shift.
- 15.6.2 Each Supervisor shall communicate any changes in post assignments or procedures, any special instructions, announcements, or any other pertinent information that may affect security operations.



- 15.6.3 On-duty Supervisors shall be available at all times during their shift to receive and implement orders or special instructions from the City concerning matters which affect the operation and security of assigned areas. The Contractor shall provide sufficient vehicles, at Contractor's expense, for Supervisors to inspect job posts and Security Officers under their supervision.
- 15.6.4 Supervisors shall instruct Security Officers as to their daily duties at the beginning of each shift. Security Officer duties shall not interfere with the operations of the City.
- 15.6.5 The Supervisor on duty may not perform the duties of a Security Officer on patrol or Relief except in emergencies. In the event of such an emergency, the Supervisor shall be billed at the rate of the officer, not supervisor's pay. It is the responsibility of the Contractor to report the filling of any security officer post with a Supervisor, to include project managers. The Supervisor shall not stand the post for more than two hours. The Contractor shall not charge the City for any post that is filled by salaried contractor, ex: Project Manager.
- 15.6.6 During emergencies, the Supervisor may staff a post for a period not to exceed two (2) hours in any consecutive eight (8)-hour period, unless this requirement is waived by the City. An Emergency Report shall be submitted to City by the Supervisor no later than the next business day after the emergency.
- 15.6.7 The City may request additional supervision for various locations or posts, at the City's expense. This does not relieve or substitute the contractor's obligation to supervise their employees as required in this Agreement.
- 15.6.8 Upon receiving a call from the Director's designated representative requiring the supervisor's attention, the Supervisor shall respond within ten (10) minutes via telephone and shall be on-site at the Facility within 45 minutes of official notification by the Security Officer or City staff during any 24-hour period to assist with the situation.
- 15.6.9 The Contractor's supervisory personnel shall make random unannounced inspections on various shifts. These inspections shall include uniform inspections for guards on duty. There must be a minimum of two visits, at each of the different locations, per calendar month. The Contractor shall submit documentation of these visits with its biweekly invoices. The weekly post inspection report format shall be approved and may be modified by the Director.

## 15.7 Mandatory Post Coverage

- 15.7.1 The Contractor's personnel shall not leave their duty post unattended at any time, unless relief is provided. It shall be the duty of the Site Supervisor Officer to periodically check to ensure that all equipment

is in working order throughout the day. Therefore, it is not acceptable to leave a post unattended by an officer (or relief officer) due to radio failure or for any other reason. If lunch breaks or coffee breaks are permitted, then there must be a relief officer for all breaks. Such breaks are to be taken at a designated break area determined by the Director.

- 15.7.2 A mandatory daily "Open Post Report" shall be forwarded to the Director, electronically by 12:00 noon of each business day, which shall include open posts not covered on the previous scheduled work day. The open post report shall name the assigned post, security officer and show the respective time periods not covered.
- 15.7.3 The Contractor shall use a Security Officer electronic web-based Tour Patrol System to ensure Security Officers are making their rounds. The Contractor shall give scanner reports to Facility Managers on a daily basis. The Contractor shall be responsible for purchasing the Security Officer electronic web-based Tour Patrol System and providing tour reports to the Security Management Division upon demand and at no cost to the City.

## **16.0 MAYOR'S EMERGENCY COVERAGE**

- 16.1 Security Officers are considered "Essential Employees" as defined in Exhibit 3, Administrative Procedure 2-3 Severe Weather and Other Emergency Conditions, page 1. Security Officers shall be compensated at their overtime rate during the severe weather conditions or other Emergency situations. The overtime rate shall begin when the Mayor declares conditions exist such that only Emergency services or limited City services are open to the public. The overtime rate shall end when the severe weather or other Emergency situation subsides, and non-essential employees are instructed to return to work.
- 16.2 The Mayor's Emergency Coverage rates shall only apply if the officer is working in the capacity of additionally ordered coverage during a Mayor's declared emergency. Special rates shall not be for previously scheduled post hours.

## **17.0 SECURITY SERVICES FOR EVENTS AND CONSTRUCTION/SPECIAL PROJECTS**

- 17.1 The City shall coordinate all Security Officer services for any public or private event held at or in conjunction with a Facility. For purposes of this Section, the term "Clients" refers to the department, person, organization or entity holding the public or private event.
- 17.2 Notwithstanding the foregoing, Contractor's Security Officers shall not allow Clients, or their agents, employees, guests, or invitees access to secured areas of the Facilities at any time.
- 17.3 The form of the Contractor's written agreement with the City's Clients shall be subject to the prior written approval of the City Attorney.

- 17.4 Any work performed on City property on behalf of the City, whether through this Agreement or another source, the rates shall be subject to this agreement.
- 17.5 Any coverage contracted on behalf of the City, directly or indirectly, shall be subject to the terms of this Agreement.
- 17.6 Special event rates shall be allowed at the discretion of the Director.

**18.0 TIME OF SERVICE**

**18.1 Time Records**

- 18.1.1 Time records shall be signed by Security Officers at the beginning and end of each shift and include a standard description of assignments for each day broken down in actual increments. No other Security Officer, Supervisor or individual is authorized to sign time records.
  - 18.1.2 All original time records and payroll records for an employee's time for which the City is charged shall be maintained locally and shall be retrievable within 24 hours of City's request.
  - 18.1.3 Contractor shall maintain electronic records of actual daily Security Officer assignments and functions in a standard and reportable manner.
  - 18.1.4 The Contractor shall make all-time records and payroll records available for inspection, copying or audit for the entire term of the Agreement and for three (3) years after the term of the Agreement. This section shall survive termination or expiration of the Agreement.
  - 18.1.5 Time records shall be signed at the end of each shift by the shift Supervisor certifying the accuracy of the time record for that Security Officer.
  - 18.1.6 Time records for all Security Officers shall be maintained at the Security Office until the end of each calendar year.
- 18.2 The Contractor shall provide the assignment of duties and location one week prior to commencement for approval by the Deputy Director of Enforcement and Security. The Contractor shall also describe how arrangements shall be made for rotating coverage during breaks for Security Officers stations at revenue locations, and shall show assignment rotation a minimum of once a month for Revenue related activities.
- 18.3 The Contractor shall use a guard sign-in log at locations determined by the Director. The original copy of the guard sign-in log shall be provided to the GSD Security Management Division. Personnel time logs and guard sign-in logs shall contain a record for each employee, which shows employee's name, date(s) worked, and time(s) worked. All personnel time logs shall be submitted to the City with the invoices pertaining to the time period covered by the logs, as well as any documentation verifying Security Officer check-in at designated

checkpoints. The Contractor understands that Contractor shall not be paid if the guard sign-in log, personnel time logs, and the invoices do not agree.

#### 18.4 Absence Reports

18.4.1 The Contractor shall orally report the absence of any Security Officer from an assigned post or position to the Director. This report shall not be made later than five minutes after the start of the reporting time for the post or position. The report shall include the name of the absent Security Officer, the post or position affected and Contractor's efforts to meet the security needs of the City. A relief officer or supervisor shall immediately fill the vacancy until other arrangements are made.

#### 18.5 Hours of Service.

##### 18.5.1 Shift Schedule

18.5.1.1 The Contractor shall provide Security Officers to fill all shifts listed in **Exhibit "B-1"**. The City reserves the right to change the times or locations of the shifts listed in **Exhibit "B-1"**. The Contractor agrees that the Services to be performed by it herein, including the locations and areas where Services are to be performed, the hours for which such Services are to be maintained, and the number of trained, equipped and qualified Security Officers to be furnished by the Contractor hereunder shall be subject to the approval of the Director. The Contractor agrees that the scheduled work hours and days of Services may be changed at any time, without any penalty to the City, provided the City gives ten (10) business days' notice of any changes to **Exhibit "B-1"**, except in emergencies.

##### 18.5.2 Limitation on Overtime

18.5.2.1 No Security officer shall work more than fourteen (14) hours on one or more Sites, for other clients of the Contractor or for or any other job in any twenty-four (24) hour period unless the work periods are separated by an eight (8) hour non-duty period. This limitation shall not apply where Contractor demonstrates in writing within one (1) business day after the event, any condition that prevented Contractor's compliance with this requirement. All requests for an exception to this requirement must receive prior written approval from the City. The Contractor shall obtain a written confirmation of the waiver of this requirement from the City for each occurrence.

##### 18.5.3 Daily Activity Reports

18.5.3.1 The Contractor shall ensure that Site Supervisor Officers or Security Officers submit an approved written shift report (Daily Activity Report) to the Facility Manager for every shift worked.

The Daily Activity Report should include a log of activity occurring during the tour of duty. Particular note should be made of unusual incidents or activity.

18.5.3.1.1 Original inspection logs and Incident Reports shall be turned in at the end of each Security Officer's shift with the Daily Activity Report.

## 18.6 Holidays

18.6.1 The City recognizes certain holidays. There are designated properties that shall not require coverage on these days.

- 18.6.1.1 New Year's Day
- 18.6.1.2 Martin Luther King's Birthday
- 18.6.1.3 Memorial Day
- 18.6.1.4 Juneteenth
- 18.6.1.5 Independence Day
- 18.6.1.6 Labor Day
- 18.6.1.7 Veterans Day
- 18.6.1.8 Thanksgiving Day
- 18.6.1.9 Day after Thanksgiving
- 18.6.1.10 Christmas Eve
- 18.6.1.11 Christmas

18.6.2 The City will require officers normally scheduled but not working due to a holiday to be paid straight time holiday pay. Officers working shall be paid time-and-half.

## 19.0 **REPORTS**

### 19.1 General Report Requirements

19.1.1 Whenever a written report is required under the Agreement, any such report shall be written in legible English. All reports shall be submitted in a Microsoft Word or compatible format in the approved template as set forth in **Section 3 of this Exhibit**. Any changes to report content or formats requested by the City shall be made at no cost to the City.

### 19.2 Incident Reports

19.2.1 Incident Reports shall be prepared no later than the end of the shift during which an incident occurs by each and every Security officer who witnessed or responded to the incident. Included in the Incident Report shall be a description of the reported incident and status such as "no incident", "all clear" or "further investigation and follow-up required." The Incident Report shall be submitted to the City Deputy Director of Enforcement and Security, or a designated representative in the approved template as set forth in **Section 3 of this Exhibit**. Incident Reports shall be submitted by Security Officers whenever there is an

event or condition on or adjacent to City Property involving injury to persons or property, criminal activity, security breaches, departures from required procedures, suspicious activity, unauthorized persons on City property or any significant confrontations or altercations among or between City employees, contractors (including Contractor's employees), or the general public. The Original Incident Reports shall be submitted to City each business day for the prior business day's incidents in electronic format as well as by fax. Security officers shall be required to gather information and make a detailed report, to submit to City, regarding any of the following incidents:

- 19.2.1.1 A Security Officer is required to intervene between any two or more persons, including other Security officers, members of the public, or City staff;
- 19.2.1.2 A Security Officer witnesses any crime or suspected crime, including assault;
- 19.2.1.3 A Security Officer witnesses any incident in which there is a potential personal injury, whether or not medical attention is requested or required, or in which loss or damage to public or private property occurs;
- 19.2.1.4 A Security Officer is required to give direction or an order to any person on a Site and they protest or express their unwillingness to comply;
- 19.2.1.5 A Security Officer discovers any unlocked doors or any activated alarms, false or otherwise;
- 19.2.1.6 A Security Officer discovers any evidence of an area being used and/or occupied by vagrants or loiterers;
- 19.2.1.7 A Security Officer observes suspicious or unusual activities, intrusion alarm information, or Graffiti attacks; and
- 19.2.1.8 Sexual harassment, racial slurs, cursing or language that may escalate to physical conflict.

### 19.3 Other Required Reports

- 19.3.1 All malfunctions, vandalism and loss of said equipment stored in the Security Control Console Office shall be reported within four (4) hours of the occurrence. The Security Control Console Office contains City equipment for which Contractor shall be responsible.
- 19.3.2 When a Security Officer observes suspicious or unusual activities, intrusion alarms, or a Graffiti attack, a report shall be telephoned to City Central Control within five (5) minutes of the occurrence.
- 19.3.3 Lost/Stolen Item Report

19.3.3.1 Security Officer completes report when a lost or stolen item is reported to provide description of lost/stolen item, location, name of facility and date.

19.3.4 Daily Activity Report (DAR)

19.3.4.1 A log of a Security Officer's activity during an assigned shift. Items to be filled out include but are not limited to time of patrols and breaks/lunch which is kept on file at the City Security Office.

19.3.5 Radio Logs

19.3.5.1 Record of all Security Officer and Supervisor radio transmissions that travel over the City designated radio frequency. Logs include time of transmission, station call letters and an hourly time check. Log is kept on file at the City Security Office.

19.3.6 Phone Logs

19.3.6.1 Record of all Security Officer and Supervisor phone activity during an assigned shift. Logs include time of the call, outgoing/incoming call, and name of the caller, and reason for the call. Log is kept on file at the City Security Office.

**20.0 LIQUIDATED DAMAGES**

20.1 Understanding

20.1.1 The Contractor and City agree that the Security Officer Services should be provided in an effective and efficient manner to ensure the security services provided to the public and City are satisfactory and the best use of public funds is achieved. To accomplish this, the City has established strict performance standards and requirements, which must be met by the Contractor. The Contractor agrees that in the event the requirements of this Agreement and Exhibits attached thereto are not complied with the City may assess liquidated damages for non-compliance, and the amount of any such liquidated damages may be deducted from payments otherwise due to the Contractor or shall be billed to the Contractor. The parties agree that the amount of actual damages resulting from Contractor's non-compliance may be difficult to ascertain and both parties agree that the liquidated damages assessed are reasonable and are not a penalty.

20.1.1.1 If the parties cannot agree on the amount of liquidated damages the matter shall be referred to the City Legal Department whose decision shall be final and binding for both parties.

20.1.1.2 Under no circumstances shall liquidated damages assessed against the Contractor exceed \$350,000.00 in any given Agreement Year or Renewal Year. Nothing herein shall limit or affect the City's rights of termination. Actual damages to the City

are not limited by this restriction of liquidated damages.

## 20.2 Concept

20.2.1 Failure to comply with the requirements of this Agreement and more specifically this **Exhibit "B"** may result in two types of conditions: correctable and non-correctable.

20.2.1.1 Correctable incidents of non-compliance are those of a nature that the non-compliance requires correction and City has suffered no monetary loss. In these cases, the Contractor shall receive written notice of the details of non-compliance. The Contractor shall have 24-hours in which to correct the unsatisfactory condition (or initiate action to have the unsatisfactory condition corrected if it is unreasonable to expect correction within 24-hours and respond to the Director, in writing of the corrective action taken. In the event the unsatisfactory condition is not corrected (or action initiated where appropriate), the liquidated damages shall be applied. The 24-hour notice period shall begin when written notice is delivered to the Contractor's appropriate employee.

### 20.2.1.2 Repeat Conditions

20.2.1.2.1 Upon the third and each additional instance of a repeated non-compliance with a correctable condition within a rolling 90-day period, the Contractor shall pay the liquidated damages with no opportunity to correct the unsatisfactory condition.

20.2.1.3 The non-correctable condition is one in which the result of the condition cannot be corrected, e.g., scheduled Security Officers not reporting for duty. In those instances, the Contractor shall be notified in writing of the details of non-compliance and allowed an opportunity to respond. The applicable liquidated damages shall be applied at the discretion of the Director.

## 20.3 Inspection Rights

20.3.1 The City reserves the right to inspect Facilities, procedures, personnel performance, and compliance with any requirement of this Agreement an unlimited number of times and assign multiple liquidated damage assessments for non-compliance if not corrected as stipulated herein. Such liquidated damage assessments to accrue for each 24-hour period the condition continues to exist.

## 20.4 Correctable Conditions include but are not limited to:

20.4.1 Failure to submit to Director, all training material for approval.  
Liquidated Damages: one-thousand dollars (\$1,000.00) per occurrence.



- 20.4.2 Allowing a security officer who has not completed the required training to work without supervision.  
Liquidated Damages: one-hundred dollars (\$100.00) per employee per day.
- 20.4.3 Failure of employees to be in a tailored, well fitted uniform or to be lacking essential equipment (e.g., radio, identification badge, keys).  
Liquidated Damages: seventy-five dollars (\$75.00) per occurrence.
- 20.4.4 Lack of familiarity with Post Orders, or Facility layout, amenities or services.  
Liquidated Damages: seventy-five dollars (\$75.00) per occurrence.
- 20.4.5 Failure to provide written daily activity report each day.  
Liquidated Damages: seventy-five dollars (\$75.00) per occurrence.
- 20.4.6 Failure to provide the written open post report at noon.  
Liquidated Damages: one-hundred dollars (\$100.00) per occurrence.
- 20.4.7 Failure to provide weather appropriate clothing with appropriate insignias or colors.  
Liquidated Damages: two-hundred dollars (\$200.00) per occurrence.
- 20.4.8 Assignment of Personnel under this Agreement that do not meet the Personnel Qualifications as defined in **Section 4.0 of this Exhibit** without written authorization from the Director.  
Liquidated Damages: two-hundred dollars (\$200.00) per occurrence for day and forfeiture of payment for hours billed for unqualified personnel.

Notice to Contractor of non-receipt of any required report may be made by telephone or orally.

20.5 Non-Correctable Conditions include but are not limited to:

- 20.5.1 Failure of Contractor to have a post staffed as scheduled.  
Liquidated Damages: two-hundred dollars (\$200.00) per hour for each hour or any portion thereof during which the post remains unmanned, per occurrence, or five-hundred dollars (\$500.00) for the first hour if the event is requested as a special event.
- 20.5.2 The Contractor employee asleep on duty.  
Liquidated Damages: A charge of seventy-five dollars (\$75.00) per hour for each hour or any portion thereof during which the Contractor's employee was found asleep, per instance. Also, Contractor's employees found sleeping on duty shall be replaced immediately.
- 20.5.3 The Contractor employees on city telephones or cell phone for personal use.  
Liquidated Damages – A charge of seventy-five dollars (\$75.00) per hour per occurrence.
- 20.5.4 Failure to provide adequate guard sign-in log documentation showing Contractor's employee worked number of hours charged to City.  
Liquidated Damages: two-hundred dollars (\$200.00) per occurrence plus refund of the amount charged for undocumented hours.

- 20.5.5 Contractor shall be accountable when required to open or close a facility at a pre-scheduled time, contractor shall be held accountable for any losses incurred by the City.  
Liquidated Damages: Deficiencies may result and include, among other things, a charge of two-hundred dollars (\$200.00) per hour for the first portion of an hour, then seventy-five dollars (\$75.00) each hour or any portion thereof during which the post remains unmanned, per instance, plus any associated cost to make the City whole.
- 20.5.6 The Contractor shall provide CJIS compliant security officers for all assignments.  
Liquidated Damages: Failure to provide CJIS compliant security officers shall result in a charge of one-thousand dollars (\$1,000.00) per each occurrence plus any actual damages as a result of fines or penalties imposed.
- 20.5.7 Contractor shall be responsible to maintain the integrity of any keys, access cards or alarm codes as assigned to perform assigned duties.  
Liquidated Damages: If failure to maintain the integrity of assigned equipment by the City is found, said deficiencies may result and include, among other things, a charge of two-hundred dollars (\$200.00) per incident plus the associated cost to make the City whole.
- 20.5.8 Agent, Supervisor or Manager fails to respond within 10 minutes via telephone and be on site at the facility within 45-minutes from request.  
Liquidated Damages: seventy-five dollars (\$75.00) per occurrence.
- 20.5.9 Failure of contractor to adjust, correct or resolve disputed invoices within ten (10) business days.  
Liquidated Damages: one-hundred dollars (\$100.00) per occurrence.
- 20.5.10 Failure of the contractor to correct disputed invoices within 45 days of a request for corrections, shall result in forfeiture of the proceeds of the invoice.
- 20.5.11 Failure to screen individuals entering a secured area.  
Liquidated Damages: two-hundred dollars (\$200.00) per occurrence.
- 20.5.12 Failure of Contractor to supply a Security Officer for an added unscheduled post within four (4) hours.  
Liquidated Damages: one-hundred dollars (\$100.00) each hour or portion thereof.
- 20.5.13 Failure to Train or Failure to Renew training, to PASS STATUS, of X-Ray Scanner Operators.  
Liquidated Damages: five-hundred dollars (\$500.00) plus any associated cost to make the City whole.
- 20.5.14 Failure of the Contractor's supervisors to conduct inspections of each post, on each shift, twice a month.  
Liquidated Damages: one-hundred dollars (\$100.00) per occurrence.

- 20.5.15 The Contractor shall not assign any Security Officer to perform services under this agreement, if such assignment would require that the Security Officer work more than fourteen (14) hours in a twenty-four (24)-hour period, or more than sixty (60) hours in a single seven (7)-day period, unless the Contractor obtains the prior written approval of the Director. Liquidated Damages: one-hundred fifty dollars (\$150.00) for every hour worked over the fourteen (14) hours, in a twenty-four (24)-hour period, or sixty (60) hours in a seven (7)-day period.
- 20.5.16 Failure to compensate security officers according to the Agreement including pay or play compliance, vacation pay, holiday pay, scheduled rates, and/or parking. Liquidated Damages: five-hundred dollars (\$500.00) per occurrence.
- 20.5.17 Failure of the Contractor to supervise and make corrections of security officers, when inspecting officers, who are officially on a designated post (e.g., out of uniform or uniform does not fit well, talking on cellphone, wearing earphones, watching movies). Liquidated Damages: two-hundred dollars (\$200.00) per occurrence.
- 20.5.18 Failure of the Contractor to properly secure facility, gates, doors, and burglary alarm at closing of daily operations. Liquidated Damages: one hundred dollars (\$100.00) per occurrence.
- 20.5.19 Failure of an officer to report an Incident in accordance with Sec 19.0. Liquidated Damages: one-hundred dollars (\$100.00) per incident.
- 20.5.20 Failure of supervisor to ensure security officer has essential equipment for post assignment (e.g., radio, identification badge, keys, post orders, etc.) Liquidated Damages: one-hundred dollars (\$100.00) per incident.

**21.0 ADJUSTMENTS TO INVOICES FOR FAILURE TO PROVIDE REQUIRED COVERAGE**

- 21.1 The City and the Contractor agree that the City shall suffer damages if the Contractor fails to provide the exact number of Security Officers, at the exact times and locations specified by the City in accordance with this Agreement and that the amount of damages shall be difficult or impossible to determine, in order to provide a reasonable mechanism to compensate the City for its damages, the Contractor shall pay an amount to be calculated monthly in accordance with **Section 2.8.2 of this Exhibit**, provided written or oral notice is provided the Contractor as soon as reasonably possible within 48 business hours and documentation of deduction is provided to the Contractor within 10 business days of the event causing the deduction.
- 21.2 If the Contractor shall fail to provide required coverage of any shift, the Contractor shall forfeit any and all compensation due it per hourly rate per Officer per hour therefor. The Contractor shall have deducted from the invoice(s) and retained by the City an amount equal to the number of hours not covered, per hourly rate per Officer per hour for so long as the post(s) shall remain uncovered. Additionally, the City shall charge back to the Contractor or deduct from payment the actual cost incurred for supplying a City employee or another Contractor's services to

replace a Security Officer who has failed to staff his or her post.

- 21.3 The City shall determine hours missed by the Contractor by the four following methods: (1) The City shall conduct on-site inspections to see if posts are filled; (2) The City shall monitor Daily Activity Reports (DARs); (3) The City shall review Contractor's Field Supervisor reports; and (4) The City shall review the time cards for those posts requiring clock rounds, if any, and if the Officers fail to clock in, the City shall consider this as evidence that the Officers were not at their post.

**22.0 SALARIES FOR CONTRACTOR AND EMPLOYEES OF SUBCONTRACTORS**

- 22.1 Contractor shall provide cost estimates for hours of operation, including estimates for business hours, Emergency hours, and Holidays. Security Officers shall be required to remain on-site for the entire eight-hour shift(s).

- 22.2 To maintain the highest quality level of professional Security Officer Services, Contractor shall ensure employees and subcontractors are compensated at, or above, the following minimum salary levels:

22.2.1 Wage Base

**Year One**

<b>Description/Position Title</b>	<b>Minimum Hourly Wage</b>
Unarmed Security Officer	\$15.00
Armed Security Officer	\$17.22
Command Center	\$23.69
Field Supervisor Officer	\$17.63
Shift Supervisor	\$17.91
Captain Site Supervisor Officer	\$18.84
Project Manager	\$29.57* Salaried
Mayor's Emergency Officer (Unarmed)	\$20.45
Mayor's Emergency Officer (Armed)	\$23.00
Mayor's Emergency Supervisor	\$25.98

**Year Two**

<b>Description/Position Title</b>	<b>Minimum Hourly Wage</b>
Unarmed Security Officer	\$15.45
Armed Security Officer	\$17.75
Command Center	\$24.40
Field Supervisor Officer	\$18.18
Shift Supervisor	\$18.46
Captain Site Supervisor Officer	\$19.42
Project Manager	\$30.31 * Salaried
Mayor's Emergency Officer (Unarmed)	\$20.96
Mayor's Emergency Officer (Armed)	\$23.58
Mayor's Emergency Supervisor	\$26.63

**Year Three**

<b>Description/Position Title</b>	<b>Minimum Hourly Wage</b>
Unarmed Security Officer	\$15.91
Armed Security Officer	\$18.30
Command Center	\$25.13
Field Supervisor Officer	\$18.75
Shift Supervisor	\$19.03
Captain Site Supervisor Officer	\$20.02
Project Manager	\$31.07 * Salaried
Mayor's Emergency Officer (Unarmed)	\$21.48
Mayor's Emergency Officer (Armed)	\$24.17
Mayor's Emergency Supervisor	\$27.30

**Year Four (First Option Year)**

<b>Description/Position Title</b>	<b>Minimum Hourly Wage</b>
Unarmed Security Officer	\$16.38

Armed Security Officer	\$18.84
Command Center	\$25.88
Field Supervisor Officer	\$19.31
Shift Supervisor	\$19.60
Captain Site Supervisor Officer	\$20.62
Project Manager	\$32.00 * Salaried
Mayor's Emergency Officer (Unarmed)	\$22.12
Mayor's Emergency Officer (Armed)	\$24.89
Mayor's Emergency Supervisor	\$28.11

**Year Five (Second Option Year)**

<b>Description/Position Title</b>	<b>Minimum Hourly Wage</b>
Unarmed Security Officer	\$16.87
Armed Security Officer	\$19.40
Command Center	\$26.65
Field Supervisor Officer	\$19.88
Shift Supervisor	\$20.18
Captain Site Supervisor Officer	\$21.23
Project Manager	\$32.96* Salaried
Mayor's Emergency Officer (Unarmed)	\$22.78
Mayor's Emergency Officer (Armed)	\$25.63
Mayor's Emergency Supervisor	\$28.95

22.2.2 Contractor shall pay time-and-half at Contractor's expense to all Security Officers who work during a Holiday. Additionally, Contractor shall pay straight time at Contractor's expense to all Security Officers normally scheduled during a Holiday where the facility is closed or services are reduced for the Security Officer's canceled shift or canceled portion of a shift.

22.2.3 Contractor shall provide, at their expense, one week of paid vacation based on a normal schedule to all Security Officers who work full and part-time.

## **23.0 SECURITY REQUIREMENTS FOR THE GENERAL SERVICES DEPARTMENT**

23.1 The General Services Department requires that all contractor personnel pass the background check for badging. Upon the completion of the background check, all contractors' employees and sub-contractors shall be required to obtain a City of Houston Contractors Badge from the General Services Department's Security Office located at 611 Walker Street, Houston, TX. Time and scheduled hours will be provided.

## **24.0 SECURITY REQUIREMENTS FOR HOUSTON PUBLIC WORKS**

24.1 The Contractor agrees to strictly abide by all security and safety regulations issued by the City as stated below.

24.2 All Contractor employees and subcontractors must be a U.S. Citizen or have a legal work permit. Each person must also present a valid unexpired U.S. state driver's license or photo identification card. A U.S. issued resident alien card, with photo, passport, or other U.S. state or U.S. federal photo documentation is acceptable to present for identification purposes. It is the responsibility of the Contractor to immediately inform the City of any personnel changes.

24.3 The City/General Services Department (GSD) Security Group shall also conduct a criminal background check (at no cost to the Contractor) on all Contractor and subcontractor employees assigned to work at any HPW site. The Contractor shall contact the security manager at GSD during normal business hours (8:00 am to 5:00 pm, M-F) to coordinate completion of criminal background checks.

24.4 The Contractor shall agree to completion of the City's Disclosure and Consent for Release of Information and any other documentation necessary to complete criminal background checks.

24.5 All Contractor employees without current identification cards shall be stopped by City employees and/or security personnel and will not be given access to any City/HPW facility. All construction employees must show a valid identification card at the entrance gate and upon request while working on site.

## **25.0 SECURITY REQUIREMENTS FOR HOUSTON POLICE DEPARTMENT LOCATIONS**

25.1 All personnel assigned to Houston Police Department (HPD) locations must comply with background check requirement in accordance with **Section 26.0 of this Exhibit**.

25.2 A security background check shall be required for each Contractor employee assigned to work at these facilities. The results of background checks shall be submitted to the General Services Department's designated representative for approval prior to employee reporting to a Police Department location. Any and all costs associated with the background check shall be the responsibility of the Contractor. HPD also has the option to perform its own background check.

**26.0 SECURITY REQUIREMENTS FOR NON-HOUSTON POLICE DEPARTMENT FACILITIES**

- 26.1 All personnel shall be subject to a security background check and a condition of assignment to any City of Houston facility. The results of the background check shall be submitted to the facility Supervisor in charge.
- 26.2 All costs associated with the background check shall be the responsibility of the Contractor.
- 26.3 The facility supervisor in charge shall have the authority to instruct the Contractor to remove undesirable personnel for just cause.
- 26.4 The decision by the Director and or the designee shall be the final in all cases involving removal of contract personnel from performing work herein specified.
- 26.5 The Contractor shall comply with all building security measures as they pertain to each facility.
- 26.6 The Contractor shall be responsible for training of staff and sub-contractors in the security measures pertaining to these facilities.

**27.0 CRIMINAL JUSTICE INFORMATION SYSTEMS (CJIS) COMPLIANCE (applicable to Houston Police Department (HPD) Occupied Facilities)**

- 27.1 The Houston Police Department recognizes that by allowing physical or logical (electronic) access to HPD facilities or network resources, people may gain access to information or systems they are statutorily prohibited from accessing. To comply with state and federal regulations, the Houston Police Department is required to document and investigate access requests to be sure access is necessary and permitted. Contractor agrees to review the Criminal Justice Information Systems (CJIS) hpd process and related documents located at <http://www.houstontx.gov/police/cjis/hpdvendorcertification.htm> and shall comply with the terms and requirements therein.

**28.0 COMPUTER MAINTENANCE MANAGEMENT SYSTEM (CMMS) COMPLIANCE**

- 28.1 Currently, the City of Houston General Services Department (GSD) utilizes a COMPUTER MAINTENANCE MANAGEMENT SYSTEM (CMMS) called Sprocket to monitor and track all work progress, to better manage finances and to create reporting documents for senior leadership. The City captures this important information through the use of work orders.
- 28.2 GSD is in the process of implementing a new work order system called FAMIS 360 developed by our partner, Accruent. FAMIS 360 is a comprehensive, web-based work order system that will provide better visibility of the day-to-day costs of maintaining the City's facilities and to consistently address their growing maintenance backlog.
- 28.3 The City (GSD) may choose at any time to implement this workorder tool requiring the selected contractor to utilize FAMIS 360 to execute all work performed for the



City of Houston General Services Department (GSD).

- 28.4 Once implemented all work shall be transmitted from GSD to the Contractor through the FAMIS 360 and the Contractor shall monitor, execute and field close work orders with all pertinent information including initial response date (not applicable to PM work orders), field complete date, total job cost billed to the City (includes labor and materials used to complete specific work order, any work that is above and beyond scope included in fixed contract with City), invoice number, and a brief description of the work performed. The City (GSD) may provide additional parameters for report formatting at any time.
- 28.5 Training for the use of FAMIS 360 shall be provided to the Contractor.

## **29.0 INVOICING**

- 29.1 The Contractor shall invoice the City and the City shall make payment in accordance with this Agreement. The Contractor invoices for those costs specified in the Agreement Fee Schedule must include itemization justifying the amounts as invoiced. Separate invoices for each facility must be provided. The itemization shall be in accordance with the Agreement Fee Schedule and shall include, but is not limited to the following:
- 29.1.1 Each invoice (in duplicate) shall be delivered, mailed or emailed to the individual facility managers of each department. The Contractor is responsible to verify the departments correct mailing address.
  - 29.1.2 Invoices must be submitted in duplicate with copies of the Contractor's daily work orders attached which have been approved by the Facility Manager or designee.
  - 29.1.3 Invoices submitted for services performed as the result of Change Order shall require that copies of the applicable Change Order also be attached to the original and one (1) invoice copy.
  - 29.1.4 Invoices submitted for services that are performed as the result of Other Work/Services must also include copies of Director's written request for the services and any additional supporting documentation required for the services provided.
  - 29.1.5 Other information or details as may be requested or specified by the Director.
  - 29.1.6 Each invoice must contain, in addition to the above, the five digit Systems Applications and Products (SAP) Contract Number and Service Release Order (SRO) number assigned by the City Controller's Office to the specified contract services; a complete description of the services provided (and complete contract name); and the Contractor's contact person for invoice irregularities.

29.1.7 Invoice addresses for the various departments are as follows:

29.1.7.1 **Houston Public Works (HPW) Invoicing Address:** The Finance Department will accept invoices submitted electronically along with required supporting information (Purchase Order, Outline Agreement number, line item, quantity, pricing, etc.). Multiple invoices can be submitted in a single e-mail.

City of Houston  
Houston Public Works  
Finance Business Office – Accounts Payable Service  
Contracts  
P.O. Box 3685  
Houston, TX 77251-3685

Requirements are as follows:

**Submit to:** [finaccountspayable@houstontx.gov](mailto:finaccountspayable@houstontx.gov)  
**Submit invoices in “PDF” format**

29.1.7.2 **General Services Department (GSD):** The Contractor shall submit monthly invoices for each GSD managed facility along with required supporting information (Purchase Order, Outline Agreement number, line item, quantity, pricing, etc.). The contractor shall mail all approved invoices to:

City of Houston  
General Services Department  
Accounts Payable  
PO Box 61189  
Houston, TX 77208-1189  
[gsdpayables@houstontx.gov](mailto:gsdpayables@houstontx.gov)

29.1.7.4 **Houston Parks and Recreation Department:** Parks and Recreation Department, 2999 S. Wayside, Gragg Building, Accounts Payable Division - Attn: Gina Singleton, Houston, TX 77023

29.1.7.6 **Solid Waste Management Department:** Solid Waste Management Department, Attn: Randy Tims, PO Box 1562, Houston, TX 77251-1562  
e-mail: [SWDAccountpayable@houstontx.gov](mailto:SWDAccountpayable@houstontx.gov)

29.1.7.7 **Municipal Courts Department:** Municipal Courts Department, Attn: Shanessa Broussard, 1400 Lubbock, Houston, TX 77002

29.1.7.8 **Houston Health Department:** Houston Health Department, Attn: Accounts Payable, 8000 N. Stadium Drive, 7<sup>th</sup> Floor, Houston, TX 77054

e-mail: accounts.payableHHD@houstontx.gov

29.1.7.9 **Administration and Regulatory Affairs Department:**  
Administration and Regulatory Affairs Department, Finance  
Business Office, Accounts Payable, PO Box 2649, Houston,  
TX 77252

### **30.0 PERFORMANCE BOND**

- 30.1 The successful Contractor shall furnish and maintain a Performance Bond in the amount One-hundred percent (100%) of the annual Agreement rate conditioned on Contractor's full and timely performance of the Agreement. The bond shall be renewed annually on the anniversary date of the Agreement award each Agreement Year. The Agreement Term shall be five (5) years.
- 30.2 The Performance Bond shall be in the same form attached hereto as **Exhibit "I"**, all duly executed by this bidder (as "Principal") and by a corporate surety company licensed to do business in the State of Texas. The surety must be listed on the current list of accepted sureties on federal bonds published by the United States Treasury Department.

### **31.0 CONTRACT ADMINISTRATION / CONTRACT COMPLIANCE**

- 31.1 The Directors or Contract Administrators of the other City Departments shall provide the Contractor with contact information for the persons who will administer this Agreement on behalf of the various other City Departments.
- 31.2 Houston Public Works reserves the right to monitor this Agreement for compliance to ensure legal obligations are fulfilled and acceptable levels of service are provided.
- 31.3 Monitoring may take the form of, but not necessarily be limited to:
- 31.3.1 Inspections;
  - 31.3.2 Review of contractor's invoices for accuracy;
  - 31.3.3 Review of permits, certifications and/or licenses;
  - 31.3.4 Site visits;
  - 31.3.5 The primary responsibility for monitoring compliance for Houston Public Works rests with the Contract Compliance Section, Procurement, Fleet and Warehouse Section.
  - 31.3.6 The Contract Compliance Section or assignee reserves the right to request additional information in writing and/or e-mail. Response to requests shall be submitted to requestor within five (5) working days from request.

## **32.0 CHARGES**

- 32.1 Charges for services provided under the Agreement shall be in accordance with the prices/rates shown in **Exhibit "F"** and in such form as may be requested or specified by the Director.
- 32.2 Contractor shall accept the following types of payments, which include but not limited to:
  - 35.2.1 Purchase Order
  - 35.2.2 Service Release Order (SRO)
  - 35.2.3 Emergency Purchase Order (EPO)
  - 35.2.4 P-Card (Credit Card)

## **33.0 DISPUTES**

- 33.1 In all cases of misunderstanding and disputes, verbal arrangement shall not be considered binding and Contractor shall produce written documentation in support of its contentions. The decision of the Director shall be final.

## **34.0 PUBLIC RELATIONS**

- 34.1 The Contractor agrees that neither it nor its agents, subcontractors, or employees shall issue or make any statements on behalf of the City with respect to any incident occurring at any Facility. The Contractor, contractor's agents, subcontractors, or their employees shall not (1) publicly discuss or issue or provide any statements, written or oral, paper or electronic, of any nature that references this Agreement, any policy, procedure, post order, or security alert, or (2) release any report, tape, recording, image, document or record related to the services provided under this Agreement, without the prior written consent of the Director. The requestor shall be directed to seek the Department of Interests Public Information Officer.

## **35.0 NOTICE TO PROCEED REQUIREMENTS**

- 35.1 Within thirty (30) days after the NTP, the Contractor shall certify to the Director and/or designee in writing that 100% of the Contractor's employees (fully trained and experienced) necessary for the effective and timely accomplishment of the Contractor's obligations under this Exhibit are in place, and all Sub-Contractors, if any, necessary for the effective and timely performance of the Contractor's obligations under this Exhibit have been engaged by the Contractor and have commenced work under their respective subcontracts.

## **36.0 CONTRACTOR'S PHASE-OUT**

- 36.1 The Contractor recognizes that the services provided by the Agreement are vital to the City's overall efforts to provide safe and efficient facility operations; that continuity thereof must be maintained at a consistently high level without interruption; that upon expiration of the Agreement a successor may continue these services; that its successor contractor shall need phase-in training; and that Contractor must cooperate in order to affect an orderly and efficient

transition.

- 36.2 Accordingly, the Contractor shall be required to provide Phase-Out services for up to 30 days prior to Agreement expiration to its successor contractor at no extra charge to the City. Phase-Out orientation shall comprise a maximum of 30 working days, 8 hours per day. Orientation may include system operations procedures, record keeping, reports, and procurement procedures, etc. Contractor shall be totally responsible for providing the services called for by the Agreement during the Phase-Out period. Contractor agrees to cooperate with its successor contractor in allowing as many personnel as practical to remain on the job in order to enhance the continuity and consistency of the services in the Agreement. Contractor agrees to disclose necessary personnel records and allow its successor to conduct on-site interviews with its employees, provided Contractor obtains the consent of said employees to disclose their personnel file records and to conduct such interviews and provided such disclosure and interviews are conducted in accord with all applicable laws, statutes, rules, regulations, and ordinances which have been passed, enacted or promulgated by any governmental body having jurisdiction over such matters.

### **37.0 ESTIMATED QUANTITIES NOT GUARANTEED**

- 37.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of services during the term of this Agreement. The quantities may vary depending upon the actual needs of the Department. The quantities specified herein are good faith estimates of usage during the term of this Agreement. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing all the quantities specified herein.

### **38.0 INTERLOCAL AGREEMENT**

- 38.1 Under the same terms and conditions hereunder, the Agreement may be expanded to other government entities through inter-local agreements between the City of Houston and the respective government entity that encompass all or part of the products/services provided under this Agreement. Separate contracts will be drawn to reflect the needs of each participating entity

**EXHIBIT B-1  
LIST OF FACILITIES**

<b>Client</b>	<b>Service</b>	<b>Location</b>	<b>Hours per Week</b>	<b>Bus Pass or Parking Required</b>
ARA BARC	Unarmed	BARC - Back Gate - 2700 Evella	112	
ARA BARC	Armed	BARC – Back Gate - 2700 Evella	56	
ARA BARC	Armed	BARC - Front & Lobby, 3200 Carr – Armed	63	
ARA BARC	Armed	BARC - Pet Adoption – 3330 Carr – Armed	63	
ARA Parking	Armed	2020 McKinney Lby	45	
City Hall \ City Hall Annex	Proj Mgr	City Hall Project Manager	40	Y
City Hall \ City Hall Annex	Shift Sup	City Hall Supervisor	128	Y
City Hall \ City Hall Annex	Unarmed	CHA - West Public Entrance	168	Y
City Hall \ City Hall Annex	Unarmed	CHA - West Public Entrance	40	Y
City Hall \ City Hall Annex	Unarmed	CHA Rover	40	Y
City Hall \ City Hall Annex	Unarmed	CHA - First Floor	60	Y
City Hall \ City Hall Annex	Unarmed	CHA - P1 (Tunnel Station)	168	Y
City Hall \ City Hall Annex	Unarmed	City Hall First Floor Bagby St. Entrance	168	Y
City Hall \ City Hall Annex	Unarmed	City Hall First Floor Visitor's Desk	8	Y
City Hall \ City Hall Annex	Unarmed	City Hall First Floor	45	Y
City Hall \ City Hall Annex	Unarmed	City Hall Second Floor Council Chambers	9.50	Y
City Hall \ City Hall Annex	Unarmed	City Hall Basement Tranquility Entrance	168	Y
City Hall \ City Hall Annex	Unarmed	City Hall Reflection Pool Rover	56	Y
City Hall \ City Hall Annex	Unarmed	City Hall Reflection Pool Rover	56	Y
City Hall \ City Hall Annex	Unarmed	Civil Service (10 hours per month)	4	Y
City Sponsored Events	Field Super	Special Event Supervisor	5	Y
HCD	Field Sup	601 Sayer	55	
City Sponsored Events	Unarmed	Special Event Officer	20	Y
General Services	Armed	Alief Neighborhood Center (future post)	280	
General Services	Command Center Operator	611 Walker	108	Y

Health Department	Proj Mgr	Health Dept. Project Manager	40	
Health Department	Unarmed	Health Admin. Bldg. Lobby	70	
Health Department	Field Super	Health Admin. Bldg. Supervisor	40	
Health Department	Armed	Health Admin. Bldg. - Armed	40.50	
Health Department	Unarmed	Health Admin. Bldg. Parking Unarmed	20	
Health Department	Unarmed	Acres Homes MSC @6719 W. Montgomery	64.50	
Health Department	Unarmed	Denver Harbor MSC @6402 Market St.	71.50	
Health Department	Unarmed	Environmental Admin @7411 Park Place	50	
Health Department	Unarmed	Environmental Admin II @7427 Park Place	50	
Health Department	Unarmed	Fifth Ward Peavy Center @3814 Market St.	40	
Health Department	Unarmed	Fifth Ward MSC @4014 Market St.	66	
Health Department	Unarmed	Hay Center @190 Cochran	55	
Health Department	Unarmed	Hiram Clark MSC Vinson Library 3810 @ Fuqua	65.50	
Health Department	Field Sup	Holcomb Lab - Sergeant	168	
Health Department	Unarmed	Kashmere MSC @8402 Lockwood	60	
Health Department	Unarmed	La Nueva Casa @1809 North Main	58.50	
Health Department	Unarmed	Magnolia MSC @7037 Capitol	70	
Health Department	Unarmed	Northeast MSC @9720 Spalding	69	
Health Department	Unarmed	Northside Health Ctr. @8523 Arkansas	58.25	
Health Department	Unarmed	Riverside Health Clinic @3315 Delano	55	
Health Department	Unarmed	Sharpstown Health Clinic @6201 Bonhomme	40	
Health Department	Unarmed	Southwest MSC @6400 High Star	61.75	
Health Department	Unarmed	Sunnyside Health Center @9314 Cullen	60	
Health Department	Unarmed	Sunnyside MSC on Welmington	60	
Health Department	Armed	Third Ward MSC @3611 Ennis	57.5	
Health Department	Armed	West End Good Neighbor @190 Heights - Armed	62	
Health Department	Unarmed	West End MSC @170 Heights	50	
HFD 1205 Dart	Armed	HFD Administration - Armed	168	
Housing and Community	Field Sup	Sergeant	50	

Development				
Houston Emergency Center (HEC)	Proj Mgr	HEC Site Supervisor	40	
Houston Emergency Center (HEC)	Unarmed	HEC Front Gate	168	
Houston Emergency Center (HEC)	Unarmed	HEC Lobby	128	
Houston Emergency Center (HEC)	Unarmed	HEC Rover	168	
Houston First	Unarmed	CHA Garage Rover	168	Y
Houston Public Library	Proj Mgr	Library - Project Manager	40	Y
Houston Public Library	Shift Sup	Jones – Shift Supervisor	128	Y
Houston Public Library	Shift Sup	Jones – Shift Supervisor – Loading Dock	78	Y
Houston Public Library	Unarmed	Jones Lobby Entrance	85	Y
Houston Public Library	Unarmed	Jones Parking Entrance	110	Y
Houston Public Library	Unarmed	Jones Overnight Rover	113	Y
Houston Public Library	Unarmed	Jones Plaza Entrance 2	55	Y
Houston Public Library	Fld Sup	Jones Fld Supervisor – Unarmed Plaza Rover	80	Y
Houston Public Library	Fld Sup	Jones Fld Supervisor – Unarmed Bldg. Rover	80	Y
Houston Public Library	Fld Sup	Jones Fld Supervisor – Armed Bldg. Rover	80	Y
Houston Public Library	Unarmed	Jones – Curbside Plaza/ Garage Entrance	21	Y
Houston Public Library	Unarmed	Julia Ideson – McKinney @ Louisiana	80	Y
Houston Public Library	Unarmed	Julia Ideson – Rover	80	Y
Houston Public Library	Unarmed	African American Library	51.50	
Houston Public Library	Unarmed	Alief Library	35	
Houston Public Library	Unarmed	Blue Ridge Stimley	24	
Houston Public Library	Unarmed	Carnegie Library	24	
Houston Public Library	Unarmed	Jungman	35	
Houston Public Library	Unarmed	Looscan Library	24	
Houston Public Library	Unarmed	McCrane-Kashmere Library	35	
Houston Public Library	Unarmed	Park Place Library	24	
Houston Public Library	Unarmed	Montrose	24	
Houston Public Library	Unarmed	Scenic Woods Library	35	
Houston Public Library	Unarmed	Smith Library	35	
Houston Public Library	Unarmed	Shepherd-Acres Homes	35	
Houston Public Library	Unarmed	Southwest Express	35	
Houston Public Library	Unarmed	TechLink@Dixon	35	
Houston Public Library	Unarmed	Young Library	24	



Houston Public Works (HPW)	Project Mgr.	611 Walker	40	Y
Houston Public Works (HPW)	Captain	1002 Washington	40	
Houston Public Works (HPW)	Armed	1002 Washington	408	
Houston Public Works (HPW)	Unarmed	4501 Leeland	80	
Houston Public Works (HPW)	Unarmed	4200 Leeland	168	
Houston Public Works (HPW)	Armed	2805 McKinney	168	
Houston Public Works (HPW)	Armed	4110 Westpark	168	
Houston Public Works (HPW)	Armed	2300 Federal Rd	340	
Houston Public Works (HPW)	Armed	3100 Genoa Red Bluff	340	
Houston Public Works (HPW)	Armed	12550 Water Works Way	340	
Houston Public Works (HPW)	Armed	7027 Ardmore	168	
Houston Public Works (HPW)	Command Center Operator	611 Walker	168	Y
Houston Public Works (HPW)	Armed	Unspecified	80	
HPW Lanier Building Posts	Unarmed	Walker Public Entrance	50	Y
HPW Lanier Building Posts	Unarmed	Walker Public Entrance Stn. 2	65	Y
HPW Lanier Building Posts	Unarmed	Garden Level Entrance	168	Y
HPW Lanier Building Posts	Unarmed	Breezeway	168	Y
HPW Lanier Building Posts	Unarmed	Loading Dock	60	Y
HPW Lanier Building Posts	Unarmed	Rover	45	Y
Mayor' Kush Program	Armed	Armed	112	Y
Mayor' Kush Program	Unarmed	Unarmed	168	Y
Municipal Courts	Proj Mgr	1400 Lubbock	40	Y
Municipal Courts	Shift Super	1400 Lubbock Bsmt	104	Y
Municipal Courts	Unarmed	1400 Lubbock Bsmt	80	Y
Municipal Courts	Unarmed	1400 Lubbock X-ray	168	Y

Municipal Courts	Unarmed	1400 Lubbock X-ray	120	Y
Municipal Courts	Unarmed	1400 Lubbock X-ray	80	Y
Municipal Courts	Unarmed	1400 Lubbock	32.50	Y
Municipal Courts	Unarmed	West Montgomery X-ray	42.50	
Municipal Courts	Unarmed	Mykawa X-ray	68	
Municipal Courts	Unarmed	Dairy Ashford X-ray	65	
Houston Public Library	Field Super	Jones - Sergeant HPL Funded	120	Y
PRD	Armed	Tranquility	168	
PRD	Armed	Tranquility	168	
PRD	Armed	Jamil Skate	56	
PRD	Armed	Lee Skate	56	
WIC Pass Through	Unarmed	Aldine WIC	0	
WIC Pass Through	Unarmed	Alief WIC	0	
WIC Pass Through	Unarmed	Airline WIC	0	
WIC Pass Through	Armed	Braesner WIC	45	
WIC Pass Through	Unarmed	Fifth Ward WIC	0	
WIC Pass Through	Unarmed	Kashmere WIC	0	
WIC Pass Through	Unarmed	La Nueva Casa de Amigos	11	
WIC Pass Through	Unarmed	Magnolia WIC	5.50	
WIC Pass Through	Unarmed	Northeast WIC	5.50	
WIC Pass Through	Unarmed	Northside WIC	0	
WIC Pass Through	Unarmed	Northwest Wick	0	
WIC Pass Through	Unarmed	Sharpstown WIC	0	
WIC Pass Through	Unarmed	Southwest WIC	5.50	
WIC Pass Through	Unarmed	Sunnyside WIC	5.50	
WIC Pass Through	Unarmed	West End WIC	0	
Unplanned Coverage	Armed	Unspecified	168	
Emergency Coverage	Unarmed	Unspecified	168	
		<i>Total estimated service hours</i>	11,012	48
		Cost of Parking /Wk (Contract)		50
		Est cost of parking		2200

**EXHIBIT "C"**

**DRUG POLICY COMPLIANCE AGREEMENT**

I, \_\_\_\_\_, \_\_\_\_\_,  
(Name) (Title)

as an owner or officer of \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the Agreement is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the Agreement with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the Agreement with the City and may result in non-award or termination of the Agreement by the City of Houston.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**EXHIBIT "D"**

**CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS  
IN PERFORMANCE OF A CITY CONTRACT**

I, \_\_\_\_\_, \_\_\_\_\_,  
(Name) (Title)

as an owner or officer of \_\_\_\_\_ (Contractor)  
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved in performing \_\_\_\_\_.  
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Human Resources if any safety impact positions are established to provide services in performing this City Agreement.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**EXHIBIT "E"**

**DRUG POLICY COMPLIANCE DECLARATION**

I, \_\_\_\_\_ as an owner or  
(Name) (Print/Type) (Title)  
officer of \_\_\_\_\_ (Contractor) (Name of Company), have personal knowledge and full  
authority to make the following declarations:

This reporting period covers the preceding 6 months from \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ A written Drug Free Workplace Policy has been implemented and employees notified. The  
Initials Policy meets the criteria established by the Mayor's Amended Policy on Drug Detection  
and Deterrence (Mayor's Policy).

\_\_\_\_\_ Written drug testing procedures have been implemented in conformity with the Mayor's  
Initials Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31.  
Employees have been notified of such procedures.

\_\_\_\_\_ Collection/testing has been conducted in compliance with federal Health and Human  
Initials Services (HHS) guidelines.

\_\_\_\_\_ Appropriate safety impact positions have been designated for employee positions  
Initials performing on the City of Houston Agreement. The number of employees in safety impact  
positions during this reporting period is \_\_\_\_\_.

\_\_\_\_\_ From \_\_\_\_\_ [Start date] to \_\_\_\_\_ [End date] the following test has occurred:  
Initials

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested	_____	_____	_____	_____
Number Employees Positive	_____	_____	_____	_____
Percent Employees Positive	_____	_____	_____	_____

\_\_\_\_\_ Any employee who tested positive was immediately removed from the City worksite  
Initials consistent with the Mayor's Policy and Executive Order No. 1-31.

\_\_\_\_\_ I affirm that falsification or failure to submit this declaration timely in accordance with  
Initials established guidelines will be considered a breach of Agreement.

I declare under penalty of perjury that the affirmations made herein and all information contained in this  
declaration are within my personal knowledge and are true and correct.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**EXHIBIT "F"**  
**FEES AND COSTS**

**EXHIBIT "G"**  
**KEY PERSONNEL**

## EXHIBIT "H"

### WAGE THEFT PREVENTION REQUIREMENTS

Contractor and its Subcontractors shall comply with all applicable federal, state and local wage and hour laws. Contractor shall investigate and resolve any allegation of wage theft made by the City, any federal or state governmental agency, Contractor's employees or its subcontractors' employees within thirty (30) days of Contractor's receipt of notice of the wage theft allegation. For purposes of this **Exhibit "H"**, Contractor shall be deemed to be in receipt of notice if Contractor receives notice from any of the parties described above by mail, electronic mail or facsimile.

Within forty-five days of receipt of an allegation of wage theft as described above, Contractor shall provide documentation to the Director and the City's Office of Inspector General that the wage theft allegation has been resolved or restitution has been paid to Contractor's employee or its subcontractor's employee(s). Documentation shall include, but is not limited to, payroll records or a judgment, decision or order from a Court of law or state or federal agency. In the event that Contractor provides a judgment, decision or order from a Court of law or state or federal agency, Contractor and its subcontractor shall provide documentation that it has satisfied or complied with any such judgment, decision or order.

Contractor agrees that in the event the requirements of this **Exhibit "H"** are not complied with, the City may assess liquidated damages for non-compliance, and the amount of any such liquidated damages may be deducted from payments otherwise due to the Contractor. The Parties agree that the amount of actual damages resulting from Contractor's non-compliance may be difficult to ascertain and both parties agree that the liquidated damages assessed are reasonable and are not a penalty. Except as required and provided for by the Texas Prompt Payment Act, City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

Contractor and City agree that the City shall assess liquidated damages in an amount equal to three times the amount claimed in the applicable wage theft allegation in the event of Contractor's failure to provide documentation to the Director of the resolution of any wage theft allegation as described above within the time specified.

Liquidated damages assessed under this **Exhibit "H"** shall not exceed more than five thousand dollars (\$5,000.00) per occurrence.



**EXHIBIT "I"**

**PERFORMANCE BOND**

**THE STATE OF TEXAS     §**  
**§**  
**COUNTY OF HARRIS     §**

\_\_\_\_\_, ("Principal") and \_\_\_\_\_, ("Surety"), shall pay to the City of Houston, Texas ("City"), the sum of \$\_\_\_\_\_ in accordance with the terms and conditions stated below:

On or about this date, the Principal executed a \_\_\_\_\_ Agreement in writing with the City for \_\_\_\_\_ ("Agreement"), which is incorporated into this Bond.

The conditions of this obligation are that if the Principal performs its obligations under the terms of the Agreement and this Bond in all respects, then this obligation is void and has no further force and effect; otherwise this obligation remains in effect and the sum of \$\_\_\_\_\_ is payable to the City on demand.

The Surety relieves the City and its representatives from the exercise of any diligence whatever in securing the Principal's compliance with the terms of the Agreement, and the Surety waives any notice to it of the Principal's default or delay in the performance of the Agreement. The Surety shall take notice of and is held to have knowledge of all acts or omissions of the Principal, its agents, and representatives in all matters pertaining to the Agreement.

The City and its representatives may at any time, without notice to the Surety, make any changes in the terms and conditions of the Agreement, or extend it, and may add to or deduct from the Principal's obligations under the Agreement. Such changes, if made, do not in any way relieve, release, condition, or limit the obligation in this Bond and undertaking or release the Surety therefrom.

SURETY AND PRINCIPAL AGREE TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, AND REPRESENTATIVES FROM ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, DAMAGES, FINES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY FAILURE ON THE PART OF THE PRINCIPAL, ITS AGENTS, AND REPRESENTATIVES, TO FULLY PERFORM UNDER THE AGREEMENT, INCLUDING ANY CHANGES OR EXTENSIONS TO IT.

If the City brings any suit or other proceeding at law on the Agreement or this Bond, or both, the Principal and the Surety shall pay to the City the additional sum of 10 percent of whatever amount the City recovers, which sum of 10 percent is agreed by all parties to be indemnity to the City for the expense of and time consumed by its City Attorney, his or her assistants, and office staff, and other costs and damages to the City. The amount of 10 percent is fixed and liquidated by the parties because the exact damage to the City would be difficult to ascertain.

This Bond and all obligations created under it shall be performable in Harris County, Texas, and all are non-cancelable. This Bond must be automatically renewed annually on the anniversary of the effective date of the Bond for the term of the Agreement and any extensions, unless the Surety gives the Principal and the City 30 days written notice before the renewal date that the Surety will not renew this Bond, in which case the Principal shall provide the City with a replacement bond (in the same form as this Bond) before the renewal date. The provisions of V.T.C.A., Government Code Section 2253, as amended, control even though the Statute may not be applicable.

All notices required or permitted by this Bond must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the

other party at the address set out on the signature page of this Bond or at such other address as the receiving party designates by proper notice to the sending party.

This Bond is effective on \_\_\_\_\_ and is binding on the Principal and the Surety, their heirs, executors, administrators, successors and assigns, jointly and severally.

EXECUTED in multiple originals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTEST/SEAL: (if a corporation)

WITNESS: (if not corporation)

\_\_\_\_\_  
(Name of Principal)

\_\_\_\_\_  
(Address of Principal)

By: \_\_\_\_\_  
Name:  
Title:  
Date:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

ATTEST/SEAL  
SURETY WITNESS:

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

By: \_\_\_\_\_  
Name:  
Title:  
Date:

By: \_\_\_\_\_  
Name:  
Title:  
Date:

REVIEWED:

\_\_\_\_\_  
Assistant City Attorney  
P. O. Box 1562  
Houston, TX 77251