

AGREEMENT FOR SECURITY GUARD SERVICES

This Agreement for Security Guard Services (the “Agreement”) is made and entered into effective the ____ day of _____, 2024 by and between the Port of Port Arthur Navigation District of Jefferson County, Texas (hereinafter referred to as “OWNER”) and _____ (hereinafter referred to as “CONTRACTOR”).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

I. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: furnishing of all materials, equipment, tools, labor, supervision services, and performing all operations in connection with qualified, professional security guard services required at Port of Port Arthur facilities, and other related work, as more fully described in CONTRACTOR’s Proposal dated _____ and attached hereto as Exhibit 1.

II. CONTRACT PRICE AND PAYMENT.

- 2.1 OWNER shall pay CONTRACTOR for services rendered in accordance with the schedule of costs set forth in CONTRACTOR’s Bid attached hereto as Exhibit 1.
- 2.2 CONTRACTOR shall submit and OWNER will process invoices for payment on a monthly basis. OWNER shall make payments on account of the services provided and for which sufficient backup is provided on or about seven (7) days following the third (3rd) Wednesday of each month during the term of this Agreement.

III. RELATIONSHIP OF PARTIES

CONTRACTOR is engaged by OWNER solely for the purposes and to the extent set forth in this Agreement. The relationship of CONTRACTOR to OWNER during the term of this Agreement shall be that of an independent contractor to OWNER. CONTRACTOR shall not be deemed to be an employee of OWNER with respect to the services to be rendered hereunder. OWNER shall not exercise control over the details of CONTRACTOR’s work or over the manner in which such work is accomplished, and such control shall remain exclusively with CONTRACTOR to accomplish the work contemplated under this Agreement.

IV. INSURANCE AND INDEMNIFICATION

- 4.1 At all times during the performance of this Agreement, CONTRACTOR will, at its own expense, and CONTRACTOR’s subcontractors will, at their own or at CONTRACTOR’s

expense, carry the insurance coverage as detailed on Exhibit 2, Port Insurance Requirements, which is attached hereto and incorporated by reference herein for all purposes. CONTRACTOR will, at its own expense, furnish to OWNER certificates attesting to the fact that such policies are in effect. All insurance shall be in an insurance company authorized to do business in the State of Texas. OWNER shall be additional insured on all policies, excluding Worker's Compensation/Employer's Liability and Professional Liability. Insurance shall be made on an "occurrence form" rather than a "claims made form."

- 4.2 Insurance policies covering CONTRACTOR and naming OWNER as additional insured and evidencing the required coverages shall be delivered to OWNER prior to commencement of the Work under this Agreement. Such policies shall provide that any change restricting or reducing coverage or any cancellation shall not be valid as respects the OWNER'S interest therein until OWNER has received 30 days' notice in writing of such change or cancellation.
- 4.3 Any and all deductibles in the above described insurance policies shall be assumed by, for the account of and CONTRACTOR's sole risk.
- 4.4 Each policy shall be endorsed to provide waiver of subrogation rights in favor of OWNER, its subsidiaries and affiliates and all other parties owning an interest in the property on which Work covered by this Agreement is to be performed. CONTRACTOR agrees to waive and agrees to have its insurer waive any rights of subrogation as respects deductibles under such policies and as respects damages to equipment, including the loss of use thereof, whether insured or not.
- 4.5 Failure of CONTRACTOR to keep the required insurance policies in full force and effective hereunder shall constitute a breach of this Agreement and OWNER shall have the right, in addition to any other rights, to immediately cancel and terminate this Agreement.
- 4.6 Nothing contained in these provisions relating to coverage and amounts set out herein shall operate as a limitation of CONTRACTOR's liability in tort or contracted for under the terms of this Agreement.
- 4.7 CONTRACTOR shall also file with the OWNER valid policies of Insurance on like form for all consultants or subcontractors. Similar insurance shall be provided by or on behalf of all consultants or subcontractors to cover their operations under the Agreement. In the event a consultant or subcontractors is unable to furnish insurance as required under the Contract, then the available insurance limits and coverages may be reviewed by the OWNER and insurance requirements may be amended.
- 4.8 CONTRACTOR shall promptly report to OWNER all accidents occurring to CONTRACTOR employees or any other parties or property.

- 4.9 Notwithstanding anything in the Contract Documents to the contrary, the Work to be performed under this Contract will be performed entirely at CONTRACTOR's risk, and CONTRACTOR assumes all responsibility therefor.
- 4.10 NOTWITHSTANDING ANYTHING IN THE CONTRACT DOCUMENTS TO THE CONTRARY, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ALL OF ITS AGENTS, OFFICERS, COMMISSIONERS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE SERVICES HEREUNDER, WHETHER IT IS CAUSED IN PART BY THE NEGLIGENCE OF THE OWNER. IN ANY AND ALL CLAIMS AGAINST THE OWNER AND/OR CONTRACTOR, OR ANY OF THEIR AGENTS, OFFICERS, COMMISSIONERS AND EMPLOYEES, BY ANY EMPLOYEE, SUBCONTRACTOR, OR EMPLOYEE OF A SUBCONTRACTOR, OF CONTRACTOR, OR BY ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS PARAGRAPH SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS. THIS CLAUSE IS NOT INTENDED TO INDEMNIFY THE OWNER FOR CLAIMS, DAMAGES, LOSSES AND EXPENSES CAUSED BY THE SOLE NEGLIGENCE OF THE OWNER.

V. CONTRACTOR'S DUTIES AND RESPONSIBILITIES

At all times during the performance of this Agreement and as more particularly described in CONTRACTOR's Proposal dated _____ and attached hereto as Exhibit 1, CONTRACTOR SHALL:

- 5.1 Recruit, screen, interview, perform criminal background checks, administer appropriate drug screens, and assign its employees ("Assigned Employees") to perform the security guard services described in Exhibit 1;
- 5.2 Pay Assigned Employees' wages and provide them with the benefits that CONTRACTOR offers to them;
- 5.3 Pay, withhold, and transmit payroll taxes; provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving Assigned Employees;
- 5.4 Verify that Assigned Employees are qualified to perform the security guard services required hereunder;

- 5.5 Provide OWNER with a list of each Assigned Employee's specific training and competencies;
- 5.6 Immediately notify OWNER should CONTRACTOR become aware of any injury or illness to an Assigned Employee or any hazard or safety issues at the work site where the Assigned Employee is assigned to work;
- 5.7 Cooperate with OWNER in any investigation of an Assigned Employee's reported injury or illness to the fullest extent possible.

VI. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 6.1 This Agreement (pages 1 to ____, inclusive).
- 6.2 CONTRACTOR's accepted Bid dated _____ and Bid Bond consisting of ____ () pages, attached hereto as Exhibit 1.
- 6.3 Insurance Requirements, attached hereto as Exhibit 2.
- 6.4 Performance bond and payment bond, each in the amount of one hundred percent (100%) of the contract price, attached hereto as Exhibit 3.
- 6.5 Certifications attached hereto as Exhibit 4.
- 6.6 Request for Proposals 2024-04.
- 6.7 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents.

There are no Contract Documents other than those listed above in this Paragraph V. The Contract Documents may only be amended, modified or supplemented only in writing signed by both OWNER and CONTRACTOR.

VII. NOTICES

Any notices given under this Agreement shall be sufficient if in writing and either hand delivered or mailed by United States certified mail, return receipt requested, postage prepaid, to the following respective addresses of notification:

OWNER: Port of Port Arthur
221 Houston Avenue
P. O. Box 1428
Port Arthur, TX 77641

CONSULTANT: _____
Attention: _____

VIII. TERMINATION

The obligation to provide further services under this Agreement may be terminated:

- 8.1 *For cause*, by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within five days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such thirty day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided from herein shall extend up to, but in no case more than, sixty days after the date of receipt of the notice.
- 8.2 *For convenience*, by OWNER effective upon the receipt of notice by CONTRACTOR.

IX. DISPUTE RESOLUTION

- 9.1 OWNER and CONTRACTOR agree to negotiate in good faith upon receipt of any notice of a dispute between them prior to exercising their rights under this Agreement or under applicable law.
- 9.2 OWNER and CONTRACTOR agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("disputes"), to mediation.
- 9.3 This Agreement is to be governed by the laws of the State of Texas. Venue of any action arising out of or in any manner connected with this Agreement shall be in a state district court of Jefferson County, Texas.

X. MISCELLANEOUS

- 10.1 No assignment by a party hereto of any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 10.2 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representative in respect of all covenants, agreements and obligations contained in the Contract Documents.
- 10.3 A waiver of either party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.
- 10.4 This instrument and the Contract Documents identified in Article 5 contain the entire agreement of the parties hereto and may not be changed except by written agreement duly executed by the parties hereto.
- 10.5 All agreements and covenants contained herein are severable, and in the event any clause or provision contained herein is declared to be invalid or unenforceable by any court of competent jurisdiction, this Agreement shall be interpreted as if such invalid or unenforceable agreements or covenants were not contained herein.
- 10.6 This Agreement is to be governed by the laws of the State of Texas. Venue of any action arising out of or in any manner connected with this Agreement shall be in a state district court of Jefferson County, Texas.
- 10.7 This Agreement shall inure to the benefit of, and be binding upon, the respective parties hereto and their respective successors, heirs and personal representatives; provided, however, that this Agreement may not be assigned by any party hereto without the prior written consent of the other parties hereto; the parties acknowledge and agree that the services of CONTRACTOR to be provided hereunder are based upon the unique personal qualifications and abilities of such CONTRACTOR .

In evidence whereof, the parties have caused this Agreement to be executed in multiple originals effective on the date first above written.

OWNER:

PORT OF PORT ARTHUR NAVIGATION
DISTRICT OF JEFFERSON COUNTY, TEXAS

CONTRACTOR:

By: _____

By: _____

Its: _____

Its: _____