



SECURITY SERVICES AGREEMENT

Contract No. 24005

THIS AGREEMENT is made by and between:

CITY OF WEST PALM BEACH, FLORIDA, a Florida municipal corporation, with a physical address of 401 Clematis Street, West Palm Beach, Florida and a mailing address of P.O. Box 3366, West Palm Beach, FL 33402-3366 (“City”), and

PROFESSIONAL SECURITY CONSULTANTS, a California corporation, authorized to do business in the State of Florida, with an address of 11454 San Vincente Blvd., Los Angeles, CA 90049, and a local address of 700 south Rosemary Avenue, Suite 200, West Palm Beach, FL 33401 (“Contractor”).

Telephone: (561) 818-3667
(310) 207-7729

FEI/EIN # 95-4018179

WHEREAS, the City requires a security services firm with an understanding of providing public assistance services in additional to traditional services; and

WHEREAS, the West Palm Beach Downtown Development Authority competitively solicited a security firm contractor to provide security services with an emphasis on assisting the public beyond traditional security services. The DDA selected Professional Security Consultants which has satisfactorily provided services to the DDA, and which contract will be effective through September 2022, subject to renewal; and

WHEREAS, the City has experienced confusion and gaps in responsibility resulting from different security firms serving the downtown street environment and City facilities; and

WHEREAS, the City wishes to engage Contractor to perform the security services; and

WHEREAS, Contractor has agreed to perform the services, as described below, for the City in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations herein contained, and subject to the terms and conditions herein stated, the parties hereto understand and agree as follows:

1. **Scope of Services.**

1.1 **Services.** Contractor agrees to provide professional unarmed security guard services as specified in this Agreement (the “**Services**”). Contractor shall render the Services in a diligent, careful, thorough and professional, subject to policies and guidelines established by, or which from time to time hereafter may be established by the City. Services may include, but are not limited to:

- a. Serving as a City “ambassador” by assisting the public with directions and inquiries.
- b. Remain alert, observe, record and report to law enforcement when necessary, as defined by the Florida Department of Agriculture and Consumer Services.
- c. Providing a visible uniform security presence for City Facilities.
- d. Coordination of security efforts with the DDA’s downtown street security team.
- e. Reacting and taking appropriate measures in the event of fire, theft, vandalism or any other unusual situation. Contact the appropriate authorities, as required.
- f. Detecting and deterring theft, unruly behavior and vandalism.
- g. Securing City property on an as-needed or requested basis.
- h. Assisting the homeless by providing them with directions to the shelters, free food locations and communicating with rehabilitation centers and outreach resources and personnel.
- i. Maintaining accurate records and reports of incidents. Preparing and submitting incident report(s) to the City. Incident reports must include an explanation describing the nature of the incident in clear English and complete sentences.
- j. Being proactive in identifying and reporting potential problems.
- k. Ensuring that all articles found or turned in are submitted to the appropriate City staff.
- l. Reporting any abandoned, unserviceable or illegally parked vehicles in City Facilities.
- m. Providing security for City special events, as mutually agreed.
- n. Perform other duties as assigned by designated City staff.

1.2 The initial hours per week established for each of the Facilities are set forth in **Exhibit “A”** attached to this Agreement and incorporated herein, totaling 1,552 hours per week. The City reserves the exclusive right to increase or decrease the total hours and to change the hours of services for any particular Facility at any time throughout the entire term of this Agreement, with a ten (10) calendar day written notice to Contractor.

1.3 Additional Services; Special Events. The City shall have the right to request additional services to increase Services for a Facility, for an additional facility and/or for City sponsored special events. City shall provide not less than forty-eight (48) hours prior notice requesting additional services. Additional Services for short term duration of ten (10) days or less shall be documented by issuance of Purchase Order which shall specify the location, hours and scope of the assignment, and incorporate the terms and conditions of this Agreement. Additional Services provided with less than 48 hours’ prior notice shall be billed at times and half.

1.4 24-hour Command Center. Contractor shall provide a command center, available 24 hours per day, to assist in the expediting communication of safety, security and Facility information.

1.5 Uniforms. Contractor shall provide all guards with uniforms which: (a) bear the word “Security” in a visibly evident location; (b) be readily distinguishable from the uniforms of the police and law enforcement; and (c) conform to any state licensing requirements.

1.6 Photo Identification. Contractor shall provide its guards with photo identification containing at a minimum: (a) the company name, (b) employee name and photo. Photo identification must be worn by security guards at all times in a visibly evident location.

1.7 Communication Devices. Contractor shall provide its security guards with communication devices sufficient to ensure and enable contact with police, fire or other emergency services, City staff, and DDA patrol services.

1.8 Equipment and Vehicles. Contractor shall finish necessary equipment and vehicles (i.e. bicycle, golf cart, Segway) to provide the Services. Equipment to be provided shall include, but is not limited to: (20) 2-way hand held radios; (3) cell phones; (13) body cameras; (4) first aid kits; (1) x-ray baggage machine. Vehicles to be provided shall include, but are not limited to: (3) patrol vehicles, including gas, maintenance and insurance; and (3) patrol carts. All transportation shall be easily identified as “security” for use by the security guards in the performance of duties.

1.9 Holidays. Contractor recognizes six holidays per year: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Services provided during these holidays will be at the rates indicated in Section 4 of this Agreement.

1.10 Compliance with laws. Contractor shall ensure compliance with the requirements of the Florida Public Records laws, the laws regarding carrying of weapons in government facilities and the laws regarding civil liberties in providing Services. Contractor shall comply with all federal and state laws and City ordinances, regulations and policies in performing the Services.

1.11 Emergency Priority Services. It is hereby made a part of this Agreement that before, during and after a public emergency, disaster, act of terrorism, hurricane, flood or Act of God, the City shall receive Services on a “first priority” basis. In the event of a disaster, the federal provisions, attached as Exhibit “B”, will become applicable to Agreement so that the City may seek reimbursement from FEMA for applicable costs under this Agreement.

2. Facilities.

2.1 Facilities. Contractor shall provide Services for the following City facilities:

- City Center, including City Hall, Photographic Museum building, City Plaza
 - Mandel Public Library
 - City Parking Garages, including City Center Garage, Clematis Garage, Banyan Garage, Evernia Garage, Sapodilla Garage.
 - City Municipal Complex
 - Water Treatment Plant
 - East Central Region Water Reclamation Facility (Wastewater Plant)
 - Currie Park
 - City Parks and Youth Empowerment Centers
 - Northwood
- (collectively, the “**Facilities**”).

2.2 The City shall have the right to add other facilities to this Agreement upon written notice to Contractor in which event the Services under this Agreement shall apply equally to the new facility and the parties shall promptly enter into an amendment to this Agreement reflecting the additional facility.

2.3 The City retains the right to sell, lease or otherwise dispose of any or all of the Facilities, or otherwise remove any of the Facilities identified herein from the operation of this Agreement, in its sole and absolute discretion, in which event the Services of Contractor under this Agreement shall pertain only to the remaining Facilities, if any, and in which event the parties shall promptly enter into an amendment to this Agreement.

3. **Contractor's Personnel.**

3.1 **Independent Contractor.** Contractor acknowledges and agrees that it is an independent contractor of the City and that Contractor's security guards and personnel shall be employees of the Contractor and shall not be deemed employees or agents of the City. Contractor's employees will not be covered by the City's workers' compensation insurance. Contractor shall be responsible for social security, unemployment and disability taxes and all other payroll taxes due with respect to Provider's employees who provide Services under this Agreement. Contractor shall have no authority to bind City to any contractual or other obligation whatsoever.

3.2 **Background Screening and Drug Testing.** Contractor shall perform pre-employment background screening at its sole cost. Security guards must pass the criminal record check through the West Palm Beach Police Department or the Palm Beach County Sheriff's Office and must possess a Class "D" license issued by the State of Florida. For personnel assigned to the Mandel Public Library, the Youth Empowerment Centers and any other Facilities, locations or events primarily related to minors, security personnel must pass the Level 2 background check (as defined in FL Statutes 435.04). Contractor shall perform pre-employment, as well as random, drug testing at its sole cost. Upon reasonable suspicion of drug use by a security guard, the City reserves the right to request a drug test or screening at Contractor's cost.

3.3 **Training.** Security personnel shall be trained under a training program certified by US Homeland Security. Security personnel shall have CPR and general first aid training. Security personnel shall have AED training and certification.

3.4 **Requirement for Security Personnel.**

- a. Security personnel shall report for duty at the designated starting time, and remain until relieved by the relief guard or at the designated end of the shift if no relief guard is assigned. Contractor shall ensure availability of additional guards in the event of no shows, illness or replacement of any unacceptable guard.
- b. Security personnel shall report for duty in proper uniform, with all necessary equipment.
- c. Photo identification must be worn by security guards at all times in a visibly evident location.
- d. Security personnel must be able to speak in clear, distinct English with a vocabulary ability to report details, especially during crisis incidents. Verbal communications, in person, by radio or by phone, must be in clear, concise, understandable English.
- e. Security personnel shall be prohibited from sleeping or napping on duty. City may direct any security guards observed sleeping or napping on duty to immediately leave in a quiet and orderly fashion and such security guard shall no longer be assigned to the City. The City will notify Contractor and Contractor will be responsible for providing a replacement security guard within two (2) hours.
- f. Security personnel shall be prohibited from having unauthorized visitors. City may direct unauthorized visitors to leave immediately in a quiet and orderly fashion and may request that such security guard no longer be assigned to the City.
- g. Security personnel shall be prohibited from carrying firearms of any type, whether concealed, exposed or encased. City may request that such security guard no longer be assigned to the City.

3.5 **Breaks.** City acknowledges that Contractor complies with federal and state laws and Contractor policy provides Contractor's personnel with an interrupted duty-free 30-minute meal break during an 8-hour

shift and two (2) 10-minute rest periods during each 8-hour shift. City acknowledges that duty-free meal and rest periods shall be uninterrupted and security personnel shall not be on-call during these times.

3.6 Acceptable performance. The City shall have the right to determine acceptable performance standards of Contractor's personnel providing Services under this Agreement. Any employee deemed by the City as unfit to perform the Services shall be promptly removed, without delay, by Contractor upon notice from the City and replaced with personnel acceptable to the City in its sole discretion.

3.7 Compliance with laws. Contractor shall comply with all necessary Federal, State and local laws, ordinances, regulations pertaining to the employment of its personnel.

4. **Compensation.**

4.1 Fee. In consideration of the performance of the Services and the undertaking of the other obligations and covenants by Contractor under this Agreement, the City shall pay Contractor on an hourly basis in accordance with the Billing Rate Schedule, which sum for all Services for the first year of this Agreement shall be One Million Five Hundred Eighty-Three Thousand Seven Hundred Fifty-Nine and 10/100 Dollars (\$1,583,759.10). The hourly Billing Rates, plus any applicable sales/state tax, shall be the sole compensation paid to Contractor in connection with the rendition of the Services and all of its other obligations under this Agreement. No additional charges, expenses or fees will be paid by the City for labor, transportation, radio communication devices, background checks, uniforms, equipment, drug screening, overhead or other charges.

4.2 Hourly Rates. The hourly Billing Rate Schedule is attached as **Exhibit "A"** and incorporated into this Agreement by this reference.

4.3 Time and Half. 1.5 times the hourly Billing Rates Schedule will be charged for Services during the Holidays listed in Section 1.9, and for Additional Services for special events or emergencies without 48-hour prior notice, pursuant to Section 1.3.

4.4 Annual Adjustment. On each annual anniversary during the Term of this Agreement, Contractor may increase the hourly rates under the Billing Rate Schedule and the annual Fee by the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor as "The Consumer Price Index for All Items, Miami-Ft. Lauderdale (Base Year 1982-84=100)" or its successor, with a minimum increase of one percent (1%) but not to exceed an increase of five percent (5%) per year.

4.5 Invoices. Invoices must identify the PO number and WPB Contract number. Invoices shall show the actual hours worked, person performing services, hourly rate, and dates(s) of service, and shall be submitted no more frequently than monthly to:

City of West Palm Beach Finance Department
Attn: Accounts Payable
P.O. Box 3366
West Palm Beach, FL 33402-3366.

4.6 Payment.

- a. Payment will be made within 45 days of a proper invoice in accordance with the Local Government Prompt Payment Act, Section 217.70, et al., Florida Statutes, as amended, which also establishes a process and remedies for non-compliance.

- b. The City will make payment by electronic deposit (ACH) based on the directions provided to the City on the ACH form provided with this Agreement.
- c. No payment made under this Agreement shall be conclusive evidence of the performance of this Agreement by Contractor, either wholly or in part, and no payment shall be construed to be an acceptance of or to relieve Contractor of liability for the defective, faulty or incomplete rendition of the Services.

5. **Term; Termination.**

5.1 **Term.** The term of the engagement under this Agreement shall commence on October 1, 2019 and shall continue for a term of three (3) years, subject to renewal or termination as provided in this Agreement.

5.2 **Renewal.** This Agreement may be renewed upon the mutual agreement of City and Contractor for an additional two (2) year term upon the same terms and conditions.

5.3 **Termination.** Either party may terminate this Agreement with or without cause upon thirty (30) days prior notice to the other party. In the event of termination, the City shall compensate Contractor for all authorized work satisfactorily performed through the termination date under the payment terms contained in this Agreement.

5.4 **Availability of Funds.** This Agreement is expressly conditioned upon the availability of funds lawfully appropriated and available for the purposes set out herein as determined in the sole discretion of the City. If funding for this Agreement is in multiple fiscal years, funds must be appropriated each year prior to costs being incurred. Nothing in this paragraph shall prevent the making of contracts with a term of more than one year, but any contract so made shall be executory only for the value of the services to be rendered or paid for in succeeding fiscal years. In the event funds to finance this Agreement become unavailable, the City may terminate this Agreement upon no less than seven (7) calendar days' notice to Contractor. The City shall be the sole and final authority as to the availability of funds.

6. **Representations, Warranties and Covenants of Contractor**

6.1 **Authority.** Contractor hereby represents and warrants to the City that it has full power and authority to enter into and fully perform its obligations under this Agreement without the need for any further corporate or governmental consents or approvals, and that the persons executing this Agreement are authorized to execute and deliver it.

6.2 **Duly Licensed.** Contractor represents that it is duly licensed to perform the Services under this Agreement and that it will continue to maintain all licenses and approvals required to conduct its business.

6.3 **No Contingency.** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach or violation of this provision by Contractor, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the contract fee, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

7. **Representation, Warranty and Covenant of City.**

7.1 **Contractor's Employees.** City agrees that during the term of this Agreement and for one full year following its expiration or termination: (a) City will not hire as its own employee, in any form, any person

then employed by the Contractor under this Agreement; and (b) City will prohibit the use of any such employee by any other security company hire by City to provide services at any Facilities serviced by Contractor under this Agreement.

8. **Right to Audit.** Contractor shall maintain adequate records for the Services performed under this Agreement for five (5) years following completion of the Services, or conclusion of any litigation regarding this Agreement. The City shall have the right to audit Contractor's books and records, at the City's expense, upon prior notice, with regard to the charges billed for the Services provided to the City under this Agreement. Contractor shall allow the City or its representative to interview all current or former employees to discuss matters pertinent to this Agreement. If an audit inspection in accordance with this section discloses overpricing or overcharges (of any nature) by Contractor to the City in excess of one-half of one percent (.5%) of the total contract billings, (1) the reasonable costs of the City's Internal Audit department shall be reimbursed to the City by Contractor and (2) a 15% penalty of the overpricing or overcharges shall be assessed. Any adjustments and/or payments which must be made as a result of the audit inspection, including any interest, audit costs and penalties shall be made by Contractor within 45 days from presentation of City's findings to Contractor. Failure by Contractor to permit such audit shall be grounds for termination of this Agreement by the City.

9. **Insurance.**

9.1 **Coverage.** Contractor shall procure and maintain for the term of this Agreement, insurance coverage obtained and written in the State of Florida of the following types and amounts:

A. **Workers' Compensation Insurance,** including Employers Liability, as required by Florida Law, covering all employees. Contractor shall ensure that all sub-contractors comply with this requirement. Workers' compensation - \$1,000,000 "each accident," \$1,000,000 "disease policy limit," and \$1,000,000 "disease each employee."

B. **Commercial General Liability.** Commercial General Liability Insurance for all operations including but not limited to Contractual, Products and Completed Operations and Personal Injury with limits of not less than Five Million Dollars (\$5,000,000) (aggregate) and Two Million Dollars (\$2,000,000) per occurrence combined single limit for bodily injury and property damage. The insurance policy must include coverage that is no more restrictive than the latest edition of the commercial general liability policy, without restrictive endorsements and the policy must include coverage for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, and personal injury. Personal injury coverage shall include coverage that has the employee and contractual exclusions removed. May not be subject to a self-insured retention or deductible exceeding \$25,000. Any liability coverage on claims made basis shall remain effective for five (5) years after final payment

C. **Automobile Liability:** Not less than \$2,000,000.00 for injuries per person in any one accident or occurrence and \$2,000,000.00 in the aggregate for injuries per occurrence or accident, with \$100,000.00 for property damage in any one accident or occurrence. May not be subject to a self-insured retention or deductible exceeding \$10,000.

D. A combination of liability insurance and excess liability coverage such as an umbrella policy may be used as long as the excess policy is following form.

9.2 **Insurers.** All Insurance Policies shall be issued by companies that (a) are authorized to transact business in the State of Florida, (b) have agents upon whom service of process may be made in Palm Beach County, Florida, and (c) have a Best's rating of A- VI or better.

9.3 Additional Insureds. All required insurance (except Worker’s Compensation) shall include an Additional Insured endorsement. No costs shall be paid by the City for an additional insured endorsement. The “City of West Palm Beach, the East Central Regional Wastewater Treatment Facility Operations Board, and their commissioners, board, officers, employees and agents” shall be named as additional insured on all applicable policies.

9.4 Certificate of Insurance. Certification of Insurance covering the aforementioned insurance requirements shall be submitted prior to the signing of a contract and maintained current on file with the City of West Palm Beach during the contract period. Thirty days’ written notice must be provided to the City of West Palm Beach in the event of insurance cancellation.

Contractor should be prepared to provide certificated(s) of insurance within five (5) days of receipt of notice of intent to award.

13. Notice. All written notices, demands and other communications required or provided for under this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, in the case of mailing, or by overnight or same day courier, or hand delivered to Contractor at the local address on the first page of this Agreement, or to the City, at the address on the first page of this Agreement, attention: City Administrator, with a copy to the City Attorney (not to constitute notice), or to such other address or person as shall be designated by a party in a written notice given in the manner required hereby.

14. Use of City Name; Logos or Seal. Contractor will not use the name of the City of West Palm Beach in any advertising or publicity without obtaining the prior written consent of the City. Contractor will not use the City logos or seals in any advertising, document, report or other media, without the prior written consent of the City.

15. News Releases / Publicity. News releases, publicity releases, or advertisements relating to Contractor’s provision of Services under this Agreement shall not be made without prior City approval.

16. **Ethics Requirements and Conflicts of Interest.**

16.1 Ethics. Contractor shall comply with the ethics requirements of the City Code and the Palm Beach County Ethics Code. No Proposer may employ, directly or indirectly, the Mayor any member of the City Commission or any director or department head of the City. The City Code prohibits any employee of member of their immediate family or close personal relation to receive a benefit or profit from any contract entered into with the City, either directly or through any firm of which they are a member, or any corporation of which they are a stockholder of an interest of 10% or more, or any business entity in which they have a significant or controlling financial interest. The City and its employees will not accept gifts, gratuities or products from Contractor and affiliates or agents.

16.2 Conflicts of Interest.

- a. Contractor represents that it has not given or accepted a kickback in relation to this Agreement and has not solicited the Agreement by payment or acceptance of a gratuity or offer of employment.
- b. Contractor represents that it has not solicited the Agreement by payment of a gift or gratuity or offer of employment to the Mayor or members of the City of West Palm Beach commission, any official, department director, head of any City of West Palm Beach agency, employee of the City of West Palm Beach, any City of West Palm Beach agency or selection committee, or member of any board, committee, or agency of the City of West Palm Beach or any of their immediate family or close personal relation (the “**Conflict Group**”).

- c. Contractor represents that it does not employ, directly or indirectly any member of the Conflict Group.
- d. Contractor represents that it will not enter into any contract, subcontract or arrangement in connection with any services or property in which any City commissioner, Mayor or officer, during tenure or for 2 years thereafter, has any interest, direct or indirect.
- e. Contractor represent that no member of the Conflict Group, who alone, or together with his household members, is a stockholder or holder of an interest, of 5% or more, in any business entity affiliated with Contractor.
- f. Contractor represents that it has not knowingly given, directly or indirectly, any gift with a value greater than \$100 in the aggregate in any calendar year to any member of the Conflict Group that provides regulation, oversight, management or policy-setting recommendations regarding Contractor or its business.
- g. Contractor, its officers, personnel, subsidiaries and subcontractors shall not have or hold any continuing or frequently recurring employment, contractual relationship, business association or other circumstance which may influence or appear to influence Contractor's exercise of judgment or quality of the Services being provided under this Agreement.
- h. Contractor, its officers, personnel, subsidiaries and subcontractors shall not, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City or in connection with any pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.
- i. Contractor shall promptly notify the City in writing by certified mail of all potential conflicts of interest or any event described in this Section. Said notification shall identify the prospective business interest or circumstance and the nature of work that Contractor intends to undertake and shall request the opinion of the City as to whether such association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Contractor. The City agrees to notify the Contractor by certified mail of its opinion within thirty (30) calendar days of receipt of the said notification and request for opinion. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor, the City shall so state in its opinion and the Contractor may, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by Contractor under this Agreement.

17. **Inspector General.** The Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the award, negotiation and performance of this Agreement, and may demand and obtain records and testimony from the Contractor or any subcontractors. Contractor agrees that in addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

18. **State of Florida Division of Corporations Information.** Contractor shall comply with all requirements of the State of Florida to conduct business in this state and shall remain in good standing with the Division of Corporations throughout the term of this Agreement.

19. **Taxes.** Contractor shall be responsible for the payment of all taxes related to or arising out of Contractor's Services, including by way of illustration but not limited to, federal income tax, social security tax, unemployment insurance taxes and any other taxes or business taxes, as required. The City is exempt

from paying state and local sales taxes and will furnish an exemption certificate upon request. Contractor is not entitled to use the City's tax exemption for its own purposes.

20. **Public Entity Crimes Act.** Contractor represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), and certifies that Consultant has not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within 36 months from the date of this Agreement. Violation of this section may result in termination of this Agreement and recovery of all monies paid, and may result in debarment from the City's competitive procurement activities.

21. **Scrutinized Companies List.** Pursuant to Fla. Stat. Sec. 287.135, Consultant represents that Consultant is not on the Scrutinized Companies that Boycott Israel List, maintained by the State of Florida, and is not engaged in a boycott of Israel.

22. **Unauthorized Aliens.** The knowing employment by Contractor of any alien not authorized to work by the immigration laws or the Attorney General of the United States is prohibited and shall be a default of this Agreement which results in unilateral termination. Contractor further represents that it is not in violation of any laws relating to terrorism or money laundering, including Executive Order No. 13224 on Terrorist Financing.

23. **Prohibited Persons.** Neither Contractor nor any of its respective officers, directors, shareholders, partners, members or affiliates (including without limitation indirect holders of equity interests in Contractor) is or will be an entity or person (i) that is listed in the Annex to, or is otherwise subject to the provisions of Executive Order 13224 issued on September 24, 2001 ("EO13224"), (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated National and Blocked Persons" (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>), (iii) who commits, threatens to commit or supports "terrorism," as that term is defined in EO13224, (iv) is subject to sanctions of the United States government or is in violation of any federal, state, municipal or local laws, statutes, codes, ordinances, orders, decrees, rules or regulations relating to terrorism or money laundering, including, without limitation, EO13224, or (v) who is otherwise affiliated with any entity or person listed above (any and all parties described in clauses (i) – (v) above are herein referred to as a "Prohibited Person").

24. **Non-Discrimination.** In performing Services under this Agreement, Contractor shall not discriminate against any person because of race, color, religion, sex, gender identity or expression, genetic information, national origin, age, disability, familial status, marital status or sexual orientation. Contractor shall not unlawfully discriminate (as proscribed by federal, state, county, city and any other local law) against any of its own employees, any City employee, or any applicant for employment with Contractor on the basis of that person's race, color, religion, sex, gender identity or expression, genetic information, national origin, age, disability, familial status, marital status, or sexual orientation, or association with members of such protected classes.

25. **Public Records.**

25.1 Contractor shall comply with Chapter 119, Florida Statutes, regarding public records. Contractor shall keep and maintain all documents, correspondence, reports, computer files, emails, photographs, videos, etc., prepared in order to perform the services under this Agreement. A request to inspect or copy public records relating to this Contract must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Contractor of the request, and the Contractor shall provide the records to the City or allow the records to be inspected or copied within a reasonable time at the cost that would not exceed the cost allowed by law. All records stored electronically must be provided to the City, upon request, in a format that is compatible with the information technology systems of the City.

25.2 Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed. Records that are exempt or confidential and exempt from public records requirements may include plans, drawings and records related to the physical security of City buildings or security systems and shall not be disclosed by Contractor, except as authorized by law and specifically authorized by City.

25.3 Upon expiration or termination of this Agreement, Contractor shall transfer, at no cost, to the City all public records in possession of Contractor. Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

25.4 Failure of the Contractor to provide public records to the City within a reasonable time or allowable cost may be subject to penalties under Sec. 119.10, Fla. Stat., and may be cause for termination of the Agreement by the City, in addition to any other remedies available under the Contract or by law.

25.5 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY CLERK, WHO IS THE CITY'S CUSTODIAN OF PUBLIC RECORDS, AT:

Office of the City Clerk
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401
561-822-1210
CityClerk@wpb.org

26. **Safety and Environmental Laws.** In performing the Services, Contractor shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards, applicable environmental laws and any other applicable rules, regulations and permits. Contractor bears full responsibility for training, safety, and providing necessary safety equipment for all Contractor personnel throughout the term of this Agreement.

27. **Governing Law; Jurisdiction; Venue; Litigation.** This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law without regard to conflicts of law provisions. The City and Contractor submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, or the Federal Southern District of Florida. Contractor agrees to waive all defenses to any suit filed in Florida based upon improper venue or forum nonconveniens. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

28. **Remedies.** No remedy conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy granted by this Agreement or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy shall preclude any other or further exercise thereof.

29. **Assignment.** This Agreement requires the specific skills and experience of Contractor and may not be assigned by Contractor.

30. **Severability.** In the event that any term or provision of this Agreement shall to any extent be held invalid or unenforceable, it is agreed that the remainder of this Agreement, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the maximum extent permitted by law.

31. **Waiver.** Any waiver by either party hereto of any one or more of the covenants, conditions, or provisions of this Agreement, shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement.

32. **Headings.** The headings contained in this Agreement are provided for convenience only and shall not be considered in construing, interpreting or enforcing this Agreement.

33. **Entire Agreement.** This Agreement, including the Exhibits, which are incorporated into this Agreement in their entirety, embody the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter.

34. **Amendment.** Except as otherwise provided for short term Additional Services in Section 1.3, this Agreement may only be modified by written amendment executed by the City and Contractor.

35. **Counterparts; Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and such counterparts will constitute one and the same instrument. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

IN WITNESS WHEREOF, the parties hereto have made and executed this Security Service Agreement as of the day and year last executed below.

ATTEST:

CITY OF WEST PALM BEACH

By: _____
City Clerk

By: _____
Keith A. James, Mayor

CITY ATTORNEY'S OFFICE
Approved as to form and legality
By: _____

Date: _____, 2019

PROFESSIONAL SECURITY CONSULTANTS

By: _____
Shaul Maouda, Senior Vice President

EXHIBIT A

BILLING RATE SCHEDULES
(consisting of 10 pages)

EXHIBIT B

FEMA PROVISIONS

The following federal provisions will be applicable for disaster/emergency services to be reimbursed by FEMA.

FEDERAL REQUIRED PROVISIONS

Contractor acknowledges that the City may apply to the state or federal government for funds which will be used to pay Contractor or reimburse the City for funds paid to Contractor. Accordingly, the Contractor, and any subcontractors, shall comply with each of the following federal laws, regulations and requirements to the extent applicable:

- 1) The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. Sec. 5121, et seq.
- 2) 44 CFR Parts 13 and 206. FHWA-1273 – Attached as **Exhibit 2**.
- 3) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
- 4) Resource Conservation and Recovery Act.
- 5) National Historic Preservation Act.
- 6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- 7) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).
- 8) Federal regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- 9) Federal agency requirements and regulations pertaining to copyrights and rights in data.
- 10) Civil Rights

The following requirements will apply to the awarded contract and any sub-contracts:

- (1) Discrimination. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion,

sex or national origin.

(2) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

(3) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29

C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(4) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

11) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

(1) Instructions for Certification – Prime Contractor:

(Applicable to all Federal-aid contracts - 49 CFR 29 and 44 CFR 13)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

b. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

c. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed

circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

f. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

h. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to

other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(2) Instructions for Certification - Subcontracts:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

*Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion*

-- Subcontracts and Purchase Orders:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

12) Access to Records

- (1) The Contractor agrees to provide the City, State, FEMA, FHWA the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.
- (2) The Contractor agrees to maintain all books, records, accounts and reports required under the contract for a period of not less than three (3) years after the date of termination or expiration of the contract, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case Contractor agrees to maintain same until the City, the State, FEMA, FHWA the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

13) No Obligation by the Federal Government

- (1) Absent the express written consent by the Federal Government, the Federal Government or FEMA is not a party to the contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

14) Compliance with the Copeland Anti-Kickback Act, (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).

15) Compliance with Davis-Bacon Act, (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor Regulations (29 CFR Part 5).