



## SECURITY SERVICES REQUEST FOR PROPOSALS (“RFP”)

**ISSUE DATE:** November 30, 2018

**DUE DATE:** **2:00 p.m.** on **January 16, 2019** (the “Submission Deadline”)

**INSTRUCTIONS:** Proposers must submit five paper copies and one electronic copy (on a flash drive) of their proposal in a sealed envelope in person, via mail or courier. Please write “Security RFP” clearly on the outside of the package or envelope. Submissions by email or fax will be rejected.

**SUBMIT TO:** Houston First Corporation, Attn: Mitch Miskowski, 701 Avenida de las Americas, Suite 200, Houston, TX 77010.

**CONTACT INFO:** Questions concerning this solicitation should be sent by e-mail to [bids@houstonfirst.com](mailto:bids@houstonfirst.com) and must be received no later than **11:00 a.m.** on **December 17, 2018**. Questions timely received will be answered collectively, in the form of one or more letters of clarification, and made available online at [www.houstonfirst.com/do-business](http://www.houstonfirst.com/do-business).

**PROJECT OVERVIEW.** Houston First Corporation (“HFC”) requests proposals responsive to the requirements of this RFP from experienced and highly-qualified contractors (each a “Proposer”) to provide security services at its facilities. The Proposer selected shall be required to provide all labor, supervision, equipment, supplies, tools, uniforms, transportation, fuel, insurance, bonds, and other goods and services necessary to provide security officers and related services in the manner set forth in this RFP.

**BACKGROUND.** HFC is a local government corporation created by the City of Houston to facilitate economic growth through the promotion of the greater Houston area and the business of conventions, meetings, tourism, and the arts. HFC manages and operates more than 10 city-owned facilities, including the George R. Brown Convention Center, Partnership Tower, Wortham Theater Center, Jones Hall for the Performing Arts, Miller Outdoor Theatre, the Theater District Parking Garages, and the Avenida Parking Garages.

**PRE-PROPOSAL MEETING.** A pre-proposal meeting will be held for the benefit of all prospective Proposers at **10:00 a.m.** on **December 13, 2018** in **Meeting Room 320 A** at the George R. Brown Convention Center, located at 1001 Avenida de las Americas, Houston, Texas 77010. Although participation at the pre-proposal meeting is not mandatory, all Prospective proposers are urged to attend.

**STAFFING REQUIREMENTS.** In addition to requiring the services of a Project Manager and Assistant Project Manager, HFC estimates in good faith that the hourly equivalent of 16 full-time supervisors and 100 security officers are required annually, assuming a 40-hour work week based on available data. HFC cannot and shall not guarantee any minimum number of positions or service hours, as requirements will fluctuate due to events, seasons, and a host of other variables, known and unknown.

**PROPOSAL FORMAT.** Although HFC prefers substance over form, to be considered responsive, Proposers are asked to review the following criteria/information requests and respond, in order, to the best of their ability:

- a. **Transmittal Letter:** Write a letter communicating effectively why the Proposer should be selected to provide security services. The letter must be signed by a person authorized to make representations on behalf of the Proposer and include a direct phone number and email address. Proposers must make a specific, unambiguous statement accepting and agreeing to comply, if selected, with the Security Services Agreement provided below.
- b. **Experience:** Describe the Proposer's history in meeting the needs of its clients. Provide three current references for security services at comparable facilities, such as airports, shopping malls, office buildings, convention centers, and theaters and include a contact name, phone number, and email address for the manager for each such reference. (Neither HFC nor the City of Houston may be used as a reference.)
- c. **Management Strategy:** Describe the Proposer's approach to the Scope of Services, including Proposer's methods and abilities related to staff scheduling, dispatching and handling emergency services. Note any value-added services provided by Proposer. Provide the name and summary of qualifications for the proposed Project Manager.
- d. **Pricing:** Pricing should be proposed on an hourly basis for four positions: (i) Project Manager, (ii) Assistant Project Manager, (iii) Supervisor, and (iv) Security Officer. Hourly fees must be inclusive of any and all costs of providing the Services, with any proposed increase over the course of the Term noted clearly, as no management fee, incentive, or other payments will be considered responsive.
- e. **Diversity Commitment:** Proposers should indicate how they intend to make good faith efforts to utilize diversity companies to meet the Diversity Goal established for this RFP.

All information provided by Proposers should be organized, clear and concise. Proposers are asked to avoid excessive graphics, title pages, or other extraneous information in their proposal other than requested by HFC in the foregoing Proposal Format section.

**EVALUATION.** HFC will review and rank every proposal received in response to this RFP based on the following weighted criteria: Transmittal Letter, including expressed acceptance of the Security Services Agreement (15 points); Experience (20 points); Management Strategy (30 points); Pricing (25 points); and Diversity Commitment (10 points).

HFC reserves the right to interview the top-ranked Proposers, not to exceed five, prior to making a selection. If interviews are scheduled, then up to 20 additional points may be added to the existing proposal scores of the top-ranked Proposers, for a maximum possible total of 120 points, based on their responsiveness during the interview.

HFC intends to award the contract to the Proposer who offers the best value to HFC, as measured by HFC utilizing the foregoing evaluation criteria, including the right to award the contract by criteria other than the lowest price proposed. HFC reserves the right to select or reject all or part of any proposal, waive minor technicalities, and select proposals in the manner and to the extent that they serve the best interests of HFC. This RFP does not commit HFC to award a contract, issue a purchase order, or to pay any costs incurred in the preparation of a proposal in response

to this RFP. HFC reserves the right to request proposal clarifications/additional information from some or all proposers.

**LETTERS OF CLARIFICATION.** Responses to all material questions timely submitted by potential Proposers, as well as revisions incorporated into this solicitation by HFC, if any, will be confirmed in a letter posted online at <http://www.houstonfirst.com/do-business/> (each a “Letter of Clarification”). When issued, Letters of Clarification become part of this RFP automatically and supersede any previous provisions in conflict therewith. By submitting their proposal, Proposers shall be deemed to have received all Letters of Clarification and to have incorporated them into their proposal. Verbal responses will not alter the terms and conditions as stated herein. It is the responsibility of Proposers to monitor the foregoing web link to ensure they receive any such Letters of Clarification and incorporate them in their proposal.

**FORM OF AGREEMENT.** By submitting a response to this RFP, Proposer agrees, upon notice of selection, to enter into the Security Services Agreement provided below. Pre-printed forms or standard terms submitted by a Proposer shall be disregarded and may result in a proposal being deemed, in the discretion of HFC, as non-responsive.

**DIVERSITY COMMITMENT.** The Proposer selected will be required to use good-faith efforts to award subcontracts to diversity participants certified by any of the identified certification agencies as defined in the HFC [Diversity Program](#). The specific goal for this RFP is **25%** of the total value of the Agreement. Proposers should note if they are certified as a diversity participant in their submittal; however, such certification shall not lessen or otherwise alter the requirement to use good-faith efforts to award subcontracts to diversity participants. All diversity-participation information provided by Proposers, including the required utilization plan, should be delivered with the proposal in a separately-sealed envelope labelled “Diversity.”

**VENDOR CODE OF CONDUCT.** Proposers who do business or seek to do business with HFC are expected to interact with HFC with high ethics and integrity. To promote ethical conduct by its existing and potential contractors, HFC has adopted a Code of Conduct for Vendors, available online at [www.houstonfirst.com/do-business](http://www.houstonfirst.com/do-business). HFC requires that all Proposers be familiar with and abide by the Code of Conduct for Vendors.

**RESTRICTIONS ON COMMUNICATIONS.** From the Issue Date until the Submission Deadline, Proposers are directed not to communicate with any HFC employee, officer or director regarding any matter relating to this RFP, other than during the pre-proposal meeting or through [bids@houstonfirst.com](mailto:bids@houstonfirst.com). HFC reserves the right to reject any proposal due to violation of this provision.

**CONFLICT OF INTEREST.** Proposers are advised that they have an obligation to disclose any affiliation or business relationship that might cause a conflict of interest with HFC. Those who need the disclosure form may find it online at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. By submitting a proposal, Proposers represent that they are in compliance with the requirements of Chapter 176 of the Texas Local Government Code.

**PUBLIC INFORMATION.** As HFC is subject to the Texas Public Information Act (“TPIA”), all information submitted by Proposers is subject to release under the provisions of the TPIA set forth in Chapter 552 of the Texas Government Code. Each page where confidential or proprietary information appears must be labeled as such clearly and unambiguously. Proposers will be advised of any request for public information that implicates their materials and will have the

opportunity to raise objections to disclosure with the Texas Attorney General at their cost and expense.

**RFP PACKETS.** A complete copy of this RFP, including the exhibits, necessary forms and other relevant information is available on-line at [www.houstonfirst.com/do-business](http://www.houstonfirst.com/do-business). This RFP provides all of the material information necessary to prepare and submit a proposal for consideration and evaluation by HFC.

**WITHDRAWAL OF PROPOSALS; ERRORS.** RFPs may be withdrawn due to errors, or for any other reason, by a written request received by [bids@houstonfirst.com](mailto:bids@houstonfirst.com) prior to the Submission Deadline.

## **SECURITY SERVICES AGREEMENT**

This Security Services Agreement (“Agreement”) is made by and between Houston First Corporation (“HFC”), a Texas local government corporation whose address is 701 Avenida de las Americas, Ste. 200, Houston, Texas 77010, and [TBD] (“Contractor”), whose address is [TBD]. In consideration of the mutual promises contained herein, the parties hereby agree as follows:

### **ARTICLE 1: DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings assigned below:

1.1 “Assistant Project Manager” means the Commissioned Security Officer designated by Contractor to support the Project Manager and perform other Services as directed by Contractor.

1.2 “Facility” means any one of the following buildings, including all appurtenant structures, parking lots, loading docks, ramps, stairwells, tunnels, elevators, escalators, signs, fixtures, equipment, and other property: the George R. Brown Convention Center; Partnership Tower; Jesse H. Jones Hall for the Performing Arts; Gus S. Wortham Theater Center; Miller Outdoor Theatre; Talento Bilingue de Houston; Avenida Plaza; Jones Plaza; Fish Plaza; Root Memorial Square; the Avenida Parking Garages (North, Central and South); the Theater District Parking Garages (Civic Center, Large Tranquility and Small Tranquility); Lots C&H; Tundra Garage; the police parking lot located at 3300 Artesian; the staging lot located at 901 Ruiz; and such other places as HFC may designate in the manner provided hereunder.

1.3 “General Manager” means the individual designated by HFC to serve as general manager of a Facility and oversee day-to-day operations.

1.4 “Non-Commissioned Security Officer” means an individual who holds a valid non-commissioned security card issued by the Texas Private Security Board pursuant to the Texas Occupations Code, Chapter 1702.

1.5 “Project Manager” means the Commissioned Security Officer designated by Contractor to direct, supervise and control the Services.

1.6 “Security Officer” means any person (other than the Project Manager, Assistant Project Manager or Supervisors) employed or retained by Contractor to provide Services under this Agreement who holds a valid commissioned or non-commissioned security card issued by the Texas Private Security Board pursuant to the Texas Occupations Code, Chapter 1702.

1.7 “Supervisor” means an individual assigned by Contractor to provide Services and perform supervisory duties who holds a valid commissioned security card issued by the Texas Private Security Board pursuant to the Texas Occupations Code, Chapter 1702 and who has previous managerial or supervisory experience in the commercial security service industry (or a reasonably acceptable equivalent, such as law enforcement or military experience).

### **ARTICLE 2: DUTIES OF CONTRACTOR**

2.1 Services. Contractor shall provide all labor, supervision, equipment, supplies, tools, uniforms, transportation, fuel, insurance, bonds, and other goods and services of any kind or type necessary to provide fixed-post and roving security guards and related services at the Facilities in strict accordance with the terms and conditions of this Agreement, including the Scope of Services attached hereto as Exhibit “A” and made a part hereof for all purposes (the “Services”).

2.2 Standard of Care. Contractor represents and warrants to HFC that the Services shall be performed (a) in compliance with federal, state, and local laws, statutes, ordinances, rules, regulations and lawful orders of public authorities, as may be amended from time to time, and (b) in a good and workmanlike order meeting the standards of quality prevailing in Harris County, Texas for services of this kind.

2.3 License and Permits. Contractor shall obtain and maintain, at its sole cost and expense, all licenses, permits, and certificates necessary to perform the Services, including all professional licenses required by any statute ordinance, rule, or regulation. Contractor shall promptly notify HFC in writing of any suspension, revocation, or other action against any license, permit or certificate held by Contractor or any of its employees, agents, or contractors, regardless of tier.

2.4 Supervision. Contractor shall supervise and direct the Services, using Contractor's best skill and attention. Contractor shall be solely responsible for, and have control over, means, methods, techniques, sequences and procedures for coordinating all portions of the Services under the Agreement, except the limited extent that other, specific instructions concerning such matters are set forth in the Agreement or Scope of Services. Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Services. Contractor shall perform all Services using trained and skilled persons having substantial experience performing the work required under the Agreement. Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

2.5 Acceptable Standards. If any Services performed by Contractor do not meet the standards of this Agreement, as determined by HFC in its reasonable discretion, then Contractor shall correct or modify the Services promptly upon demand from, and at no additional cost to, HFC. If Contractor performs Services knowing it to be contrary to applicable laws, statutes, ordinances, rules and regulations, and/or lawful orders of public authorities, then Contractor shall be liable for such violation and shall bear the costs attributable to correction.

2.6 Safety. Contractor represents and warrants to HFC that the Services shall be performed in a safety and reasonable manner, in compliance with applicable federal, state and local laws, statutes, ordinances, and lawful orders of public authorities. Contractor shall provide its employees, agents, contractors, and subcontractors with any personal protective equipment necessary to perform the Services safely.

2.7 Actions of Personnel. Contractor shall be liable to HFC for the negligent and intentional acts and omissions of Contractor's employees, agents, contractors, subcontractors, and other persons or entities performing portions of the Services for or on behalf of Contractor, including, but not limited to, damage to Facility walls, carpet, movable wall partitions, doors, escalators, elevators, and other property of any kind or type. Contractor shall, at its sole cost and expense, promptly remedy such damages and restore any property or fixtures affected to the condition existing prior to such damage, to the satisfaction of HFC.

2.8 Authorized Representative. Contractor hereby designates the Project Manager as its authorized representative with respect to the Services and all matters arising under this Agreement.

2.9 Correction of Services. If any Services performed by Contractor do not meet the standards of this Agreement, as determined by HFC in its reasonable discretion, then Contractor shall correct or modify the Services promptly upon demand from, and at no additional cost to, HFC. If Contractor performs Services knowing it to be contrary to applicable laws, statutes, ordinances, rules and regulations, and/or lawful orders of public authorities, then Contractor shall be liable for such violation and shall bear the costs attributable to correction.

2.10 Facility Inspection. Execution of the Agreement by Contractor is a representation to HFC that Contractor has visited each Facility and become familiar with the conditions under which the Services are to be performed, and correlated personal observations with the requirements of the Agreement.

2.11 Third-party Event Security. Contractor shall not provide event security services for an event licensee or tenant at any Facility unless approved in advance and in writing by the appropriate General Manager. Even if approved, Contractor shall be prohibited from utilizing or sharing any personnel or equipment used by Contractor to perform Services under this Agreement for the benefit of any third-party licensee or tenant in any manner or to any extent.

2.12 Phase-out Services. Contractor recognizes that the Services provided under this Agreement are crucial to the operation of the Facilities; that continuity thereof must be maintained at a consistently high level without interruption; that upon expiration of the Agreement, a successor contractor may continue these services; that such contractor shall need phase-in orientation training; and that Contractor shall cooperate in order to effect an orderly and efficient transition of service providers. Accordingly, Contractor agrees to and shall provide phase-out services for up to 30 calendar days prior to the expiration of this Agreement for any successor contractor at no charge to HFC or such successor contractor. 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 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.

### **ARTICLE 3: TERM, PAYMENT AND BOND**

3.1 Term. The term of this Agreement shall begin on **April 1, 2019** and end on **March 31, 2024** (the "Term"), unless sooner terminated hereunder; provided, however, that upon written notice to Contractor from HFC, the Term may be extended, on the same terms and conditions set forth herein, for an additional period of time, not to exceed 120 days.

3.2 Payment. Subject to all terms and conditions of this Agreement, HFC agrees to pay Contractor for Services performed based on the hourly rates for Services set forth in the table below, which Contractor represents to be inclusive of all amounts due and payable by HFC for the Services (including, by way of example and not limitation, salaries and wages to personnel, administrative fees, overhead, rent, insurance, binds, office supplies, training, licenses, permits, litigation expenses, applicable taxes, vehicles, fuel, equipment, supplies, tools, phones, computers, and uniforms). Contractor acknowledges and agrees that there are and shall be no reimbursable expenses of any kind or type under this Agreement. **[TBD]**

3.3 Minimum Payment to Personnel. Contractor shall ensure that the minimum hourly wage paid to Contractor's personnel, including contractors of any tier, for the performance of Services under this Agreement are as follows: (a) Project Manager, \$31.23; (b) Assistant Project Manager, \$27.98; (c) Supervisor, \$21.51, and (d) Security Officer, \$12.30.

3.4 Invoices. Contractor will be paid on the basis of, and in response to, separate monthly invoices submitted by the fifth calendar day of the month following each month in which Services are performed. Each such invoice shall be Facility-specific, except as directed by HFC, and include a true and correct itemization of the actual labor hours expended and the correct hourly rate payable by HFC. HFC shall make payment to Contractor within 30 calendar days of the receipt and approval by HFC of each such invoice.

3.5 Invoice Disputes. If any item in any invoice submitted by Contractor is disputed by HFC for any reason, including lack of supporting documentation, then HFC shall temporarily delete the disputed item and pay

the remaining amount of the invoice; provided, however, that HFC shall promptly notify Contractor of the dispute and request clarification or remedial action. After any dispute shall have been settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on an invoice for the disputed item only.

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

3.7 Performance Bond. Contractor shall provide a performance bond for \$1,500,000.00 on a form approved by HFC's General Counsel covering faithful performance of the services arising under the Agreement. The bond that is given or tendered to HFC must be (a) executed by a surety company that is authorized and admitted to write surety bonds in the State of Texas; (b) on a form approved by HFC with no changes made by Contractor or surety, (c) dated no more than 30 calendar days old; and (d) accompanied by power of attorney stating that the attorney in fact executing such the bond has requisite authority to execute such Bond. Contractor shall deliver the required bond to HFC prior to commencing Services hereunder.

3.8 Payment of Employees and Subcontractors. Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance this Agreement including Contractor's employees. Contractor is solely responsible for the payment of overtime wage in accordance with applicable law and such obligation shall not increase the amount due and payable by HFC in any manner or to any extent. Failure of Contractor to pay its employees as required by law shall constitute a material 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.

#### **ARTICLE 4: INSURANCE REQUIREMENTS**

4.1 Insurance Requirements. With no intent to limit Contractor's liability under the indemnifications provisions, Contractor shall provide and maintain, at its sole cost and expense for the full duration of the Term, including any extension thereof, at least the following insurance and available limits of liability:

- a. Commercial General Liability, including broad form coverage, contractual liability, bodily injury/death, and property damage in amounts not less than \$1,000,000 each occurrence, \$2,000,000 aggregate, and including a \$3,000,000 umbrella or excess policy, which shall contain a clause stating that it takes effect in the event the primary limits are impaired or exhausted;
- b. Automobile Liability, including owner, hired and non-owned coverage with a combined single limit of \$1,000,000 per occurrence;
- c. Workers' Compensation with statutory limits (Contractor shall not self-insure for Workers' Compensation); and
- d. Employer's Liability, with limits of \$1,000,000 for each accident, disease limits of \$1,000,000 per policy and \$1,000,000 per employee.

4.2 Additional Insured Parties. Each policy, except those for Workers' Compensation and Employer's Liability, must include an additional insured endorsement in favor of HFC and the City of Houston on the original policy and all renewals or replacements during the Term of the Agreement.

4.3 Waiver of Subrogation. Each policy must contain an endorsement approved by HFC waiving any claim or right in the nature of subrogation in favor of HFC and the City of Houston.

4.4 Rating. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or shall be an eligible non-admitted insurer in the State of Texas and have an A.M. Best's rating of at least A- with a financial size category of Class VI or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States.

4.5 Premiums and Deductibles. Contractor shall be solely responsible for payment of all insurance premiums hereunder. Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for same against HFC, its officers or employees.

4.6 Primary Insurance. Each policy hereunder, except Workers' Compensation, shall be primary to any other insurance available to HFC with respect to claims arising hereunder.

4.7 Subcontractor Insurance Requirements. Contractor shall require its contractors, regardless of tier, to provide and maintain Commercial General Liability, Workers' Compensation, and Employer's Liability coverage meeting the requirements of this section.

## **ARTICLE 5: LIMITATION OF LIABILITY**

5.1 Release. **CONTRACTOR AGREES TO AND SHALL RELEASE HFC, ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AND AGENTS FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE BY CONTRACTOR UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CONCURRENT NEGLIGENCE OF HFC AND CONTRACTOR, AND INCLUDING ALL LIABILITY FOR DAMAGES OR OTHER RELIEF ARISING UNDER FEDERAL OR STATE EMPLOYMENT LAWS RELATING TO OR INVOLVING PERSONNEL EMPLOYED OR RETAINED BY CONTRACTOR.**

5.2 Indemnification. **CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HFC, ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AND AGENTS (COLLECTIVELY, "INDEMNITEES") HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR OTHER LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE BY CONTRACTOR UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY OR RELATING TO CONTRACTOR AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY, "CONTRACTOR'S") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS; INDEMNITEES' AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; INDEMNITEES' AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL EMPLOYMENT LAWS, INCLUDING WITHOUT LIMITATION, ANY AND ALL CLAIMS AND CAUSES OF ACTION BROUGHT AGAINST INDEMNITEES BY CONTRACTOR'S PERSONNEL AND/OR GOVERNMENT AGENCIES**

**ARISING FROM, RELATING TO, OR INVOLVING SERVICES OF CONTRACTOR'S PERSONNEL UNDER THIS AGREEMENT.**

5.3 Indemnification Procedures. If HFC 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 calendar days. The notice must include a description of the indemnification event in reasonable detail, the basis on which indemnification may be due, and the anticipated amount of the indemnified loss. This notice does not stop or prevent HFC from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If HFC does not provide this notice within the 30 calendar 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. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to HFC. Within 10 calendar days after receiving written notice of the indemnification request, Contractor must advise HFC as to whether or not it will defend the claim. If Contractor does not assume the defense, then HFC may assume and control the defense, and all defense expenses constitute an indemnification loss. If Contractor elects to defend the claim, HFC may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of HFC, unless it would result in injunctive relief or other equitable remedies or otherwise require the Indemnitees to comply with restrictions or limitations that adversely affect the Indemnitees; require the Indemnitees to pay amounts that Contractor does not fund in full; or not result in the Indemnitees' full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

5.4 Waiver of Certain Damages. **HFC SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS (DIRECT OF INDIRECT) AND LOST REVENUES HOWSOEVER ARISING, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF HFC HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN ANY SUCH DAMAGES.**

**ARTICLE 6: DEFAULT AND TERMINATION**

6.1 Default. Contractor shall be deemed automatically to be in default under this Agreement due to the occurrence of any of the following events: (a) Contractor fails to perform or observe any term, condition or requirement under this Agreement; (b) Contractor, or any employee, agent, contractor, or subcontractor of Contractor, violates applicable law in connection with the performance of the Services; (c) Contractor becomes insolvent; (d) All or substantial part of Contractor's assets are assigned for the benefit of its creditors; (e) A receiver or trustee is appointed for Contractor; or (f) Contractor assigns this Agreement without the prior written consent of HFC.

6.2 Remedies. If default by Contractor occurs, then HFC shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, HFC shall have the right, but not the obligation, to cure or cause to be cured on behalf of Contractor any such default, and Contractor shall pay HFC on demand all costs and expenses incurred by HFC in effecting such cure, in addition to all actual damages, losses, costs or expenses incurred by HFC as a result of such default by Contractor.

6.3 Termination for Convenience. HFC reserves the right to terminate this Agreement for convenience at any time by giving 30 calendar days' written notice to Contractor. HFC's right to terminate this Agreement for convenience is cumulative of all rights and remedies that exist now or in the future. 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. HFC shall then pay the fees to Contractor for Services actually performed, but not already paid for. **TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S SOLE AND EXCLUSIVE REMEDIES FOR HFC'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 HEREIN), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM HFC'S TERMINATION FOR CONVENIENCE.**

6.4 Termination by Contractor. Contractor may terminate this Agreement only if HFC defaults and fails to cure the default after receiving written notice thereof. Default by HFC occurs if HFC fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor seeks to terminate the Agreement, then Contractor must deliver a written notice to HFC describing the default and proposed termination date. Such date must be at least 60 calendar days after HFC receives notice. If HFC cures the default before the proposed termination date, then the proposed termination date is ineffective. If HFC does not cure the default before the proposed termination date, then Contractor may terminate this Agreement upon notice to HFC and may seek any remedy available under applicable law, subject to the provisions and limitations of this Agreement.

6.5 Remedies Cumulative. The rights and remedies of HFC under this Agreement shall be cumulative. HFC shall have and may exercise all other rights and remedies not inconsistent herewith as provided under applicable law, or in equity. No exercise by HFC of one right or remedy shall be deemed an election, and no delay by HFC shall constitute a waiver, election or acquiescence to any default, breach, violation, or on-performance by Contractor.

## **ARTICLE 7: CONFIDENTIALITY**

7.1 As used herein, the term "Confidential Information" shall mean any information relating to the business, operations, plans, finances, or assets of HFC (whether oral or written, and whether in electronic or other form) disclosed to Contractor or learned or developed by Contractor in connection with the performance of Services under this Agreement.

7.2 Contractor agrees to and shall hold all Confidential Information in strict confidence and protect it with the same degree of care with which the Contractor protects its own confidential information, but in any event with no less than a commercially reasonable standard of care; use Confidential Information only for purposes permitted or necessary to fulfill contractual obligations between Contractor and HFC; not copy or otherwise duplicate Confidential Information, or knowingly allow anyone else to copy or otherwise duplicate any Confidential Information then under its control; restrict disclosure of Confidential Information solely to select employees on a need-to-know basis who are under legal obligations requiring them to keep such Confidential Information confidential; not take advantage of any business opportunity based on or derived in whole or in part from the Confidential Information; and not otherwise disclose Confidential Information to any other person or entity.

7.3 Contractor hereby acknowledges and agrees that in the event of any actual or threatened breach of this Agreement (including, without limitation, disclosure of the Confidential Information), HFC may suffer irreparable harm and injury and no remedy at law will afford it adequate protection against, or appropriate compensation for, such injury. Accordingly, Contractor agrees that, in addition to all other rights and

remedies available at law or in equity (all of which are reserved by HFC), HFC shall be entitled to injunctive relief and specific performance under this Agreement, as well as the right to recover all costs (including reasonable attorneys' fees) that may be incurred to enforce this Agreement.

7.4 If Contractor is legally compelled, pursuant to a subpoena or other applicable law to disclose any Confidential Information disclosed to it by HFC, then Contractor agrees that it shall provide HFC with reasonably prompt notice of such request or requirement, and will in good faith consult with and consider the suggestions of HFC concerning the nature and scope of such Confidential Information the Contractor proposes to disclose.

## **ARTICLE 8: REQUIRED PROVISIONS**

8.1 Diversity Program. Contractor shall make good faith efforts to award subcontracts equal to twenty-five percent **25%** of the value of this Agreement to certified, diverse suppliers of good and services in accordance with the Diversity Program established by HFC, which is made a part hereof for all purposes. Contractor shall disclose to HFC the manner and extent to which it has made good faith efforts to achieve such goal and submit reports on forms provided by HFC with each invoice, or as directed by HFC.

8.2 Drug Testing. It is the policy of HFC to achieve a drug-free workforce and workplace; Contractor shall comply with this policy and shall subject its employees to drug testing if there is a reasonable suspicion that the employees may be abusing drugs or alcohol while working in a Facility. Prior to their employment by Contractor, all personnel performing Services under this Agreement on a routine basis shall be drug tested at Contractor's expense. Subsequent drug testing, whether at random or for reasonable suspicion, shall also be conducted at Contractor's expense. Any employee or applicant testing positive for drugs or alcohol shall not be permitted to perform Services for HFC under this Agreement. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Contractor, including its employees, agents and subcontractors, is prohibited at the Facilities.

8.3 Background Checks. Contractor shall conduct national and local background checks on all temporary and permanent employees, including subcontractor employees, at its sole cost, before they are assigned to work at any of the Facilities. Background checks shall include a through criminal history check, including registered sex offender status, prior employment history check, inclusive of dismissals and reasons, if any, and level of education. Background checks shall be conducted in accordance with EEOC regulations, as may be amended from time to time. Upon request by HFC, Contractor shall provide evidence that the background checks have been conducted, both at the beginning of the Term and at any other time deemed necessary by HFC throughout the Term. Contractor may be required by HFC at Contractor's expense to conduct additional background checks for special events. Failure to strictly comply with this requirement is grounds for immediate termination of the Agreement.

8.4 Environmental Compliance. Contractor shall comply with all rules, regulations, statutes, or 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 ("Environmental Laws"). Contractor shall promptly reimburse HFC for any fines or penalties levied against HFC because of Contractor's failure to comply. Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to or from the Facilities 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 storm sewer system or sanitary sewer system or elsewhere on HFC property in violation of the Environmental Laws.

Contractor shall provide a Safety Data Sheet for each and every Hazardous Material used in performance of the work on HFC property as required under the Environmental Laws.

## **ARTICLE 9: MISCELLANEOUS PROVISIONS**

9.1 Additions and Deletions. HFC, by means of a written directive to Contractor, may add or delete Facilities or services to or from this Agreement and any items or services provided by Contractor that are reasonably related to the scope of this Agreement. Written notification of the added or deleted Facilities, items or services shall take effect upon Contractor's receipt of such notice or on such other day as specified therein. Charges for deletions shall be excluded from any sums otherwise due under the Agreement as of the date such notice is received by Contractor. Charges for additions shall be provided at the same cost as existing Services under the Agreement or, in the absence thereof, at a reasonable price agreed upon in advance by HFC and Contractor.

9.2 Force Majeure. Timely performance by both parties is essential to this Agreement. However, neither party will be liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by an occurrence of Force Majeure. For purposes of this Agreement, the term "Force Majeure" shall mean fires, floods, hurricanes, tornadoes, and other Acts of God. The term Force Majeure does not include strikes, slowdowns or other labor disputes; 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. Relief is not applicable unless the affected party uses due diligence to remove the Force Majeure as quickly as possible and provides the notice describing the actual delay or non-performance incurred within 20 calendar days after the Force Majeure ceases. An occurrence of Force Majeure shall not extend the Term. Without limiting the foregoing, HFC further reserves the right, due to an occurrence of Force Majeure or other cause beyond the control of HFC, to suspend performance by Contractor at one or more Facilities for such period of time as HFC may determine in its sole discretion, and Contractor acknowledges and agrees that fees for Services or other payments of any kind or type shall abate for the duration of such period.

9.3 Inspections and Audits. Upon reasonable notice, HFC shall have the right to examine and review all books, records and billing documents held by Contractor, including its agents, which relate to performance or payment under this Agreement. Nothing in this Section shall affect the time for bringing a cause of action or the applicable statute of limitations. Any discrepancies identified in connection with any such audit shall be corrected by the Contractor within 10 calendar days, and Contractor shall provide HFC a written explanation for each discrepancy and corrective action taken within such time.

9.4 Notices. Notices to either party to the Agreement must be in writing and must be delivered by hand, United States registered or certified mail, return receipt (or electronic return receipt) requested, Federal Express, UPS or any other national overnight express delivery service. Notices given in accordance with any of the foregoing methods effective only if and when received (or service is refused) by the party to be notified. Notices must be addressed to the party to whom the notice is given at its address set out in 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.

9.5 Independent Contractor. HFC and Contractor agree that they do not intend to form, and this Agreement shall not be construed as creating, a partnership or joint venture under any circumstances. Neither party hereto shall have any authority, in any manner or to any extent, to bind the other party. With respect to each other, the parties shall be independent contractors for all purposes.

9.6 Venue and Laws. Contractor shall strictly comply with all applicable laws, ordinances, codes, and regulations that affect performance by Contractor hereunder. This Agreement shall be construed in

accordance with the laws of the State of Texas without regard to conflict of law principles. Any litigation in connection with this Agreement shall be in a court of competent jurisdiction in Harris County, Texas.

9.7 Non-Waiver. Failure of either party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

9.8 Ambiguities. 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.

9.9 Survival. The parties shall remain obligated to each other under all clauses of this Agreement that expressly or by their nature extend beyond the expiration of the Term or termination of the Agreement.

9.10 Assignment and Severability. Contractor shall not assign this Agreement in whole or in part without the prior written consent of HFC. 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.

9.11 Entire Agreement. This Agreement, including the attached exhibits, represents the entire and integrated agreement between HFC and Contractor and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a conflict between the Agreement and the exhibits, this Agreement shall control and prevail. This Agreement may not be altered amended except in writing executed on behalf of HFC and Contractor.

*[Signature Page to Follow In Final Agreement]*

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

[TBD] ("Contractor") agrees to and shall provide all labor, materials, parts, supervision, equipment, uniforms, insurance, bonds, transportation, fuel, and other goods and services of any kind or type necessary to provide fixed-post and roving security guards and related services at the Facilities in strict accordance with the terms and conditions of the foregoing Agreement, including the following Scope of Services made a part thereof for all purposes:

**I. Personnel Requirements**

1.1 Contractor shall engage a Project Manager with at least 10 years' experience in the provision of security services, who shall use and occupy a portion of the Facility as his or her primary business office, to ensure the safe and effective performance of the Services. Contractor represents and warrants to HFC that such Project Manager shall direct and supervise all aspects of the Services and is authorized to represent and act for Contractor with regard to all matters pertaining to this Agreement. The Project Manager shall be dedicated exclusively to the services required by this Agreement. Any change of Project Manager is subject to the prior written notice to HFC.

1.2 Contractor shall engage an Assistant Project Manager with at least 5 years' experience in the provision of security services, who shall support the Project Manager and perform other Services as directed by Contractor.

1.3 Contractor represents and warrants that the Project Manager or, in the event his or her unavailability for any reason, the Assistant Project Manager, shall be available immediately by phone, email, and text message Monday through Friday from at least 8:00 a.m. to 5:00 p.m. (excluding holidays). Outside of such times, Contractor guarantees an inquiry-specific response within 30 minutes, with a direct and immediate contact made available to HFC for use in the event of an emergency at all times.

1.4 Contractor shall engage and provide fixed-post and roving Supervisors and Security Officers in sufficient quantity to provide the Services and fulfill Post Order requirements, including relief personnel to monitor posts during authorized break periods.

1.5 Contractor shall provide fully-trained, highly-qualified Security Officers as well as the management, supervision, administrative and support services necessary to provide high-quality security services at the Facilities. Contractor shall only employ persons duly licensed by the State of Texas to perform the Services required under this Agreement for which applicable Texas law requires a license.

1.6 Contractor agrees that the locations where and the hours during which Services are to be performed, and the number of Supervisors and Security Officers to be furnished by Contractor shall be subject to the prior approval of HFC. Contractor agrees that HFC has not represented and cannot guarantee any minimum number of services hours or positions.

1.7 Supervisors and Security Officers shall arrive for work no more than 30 minutes before their shifts begin and shall leave the premises within 15 minutes after their shifts end, unless an early arrival or late departure is necessary due to scheduling irregularities or an emergency situation. Arrival and departure times are subject to change at the sole discretion of HFC.

1.8 All Contractor personnel, including subcontractors, shall be required to carry and have clearly displayed on their person a photo identification card (including Texas commission or registration) at all times when performing Services at the Facilities. Contractor shall issue the photo identification cards at its expense.

These cards shall include the company name, types first and last name of the individual, a recent photograph of the employee, and the date of commission class completion.

1.9 Contractor shall ensure that Security Officers and Supervisors are allowed two 15-minute breaks and one 30-minute meal break, per eight-hour shift, provided that they remain on-call during the breaks and meal periods.

1.10. HFC or a General Manager may, at any time, ask the Contractor to submit a list of all Security Officers and Supervisors working on any specified day, for a random check of commission verification.

1.11 Contractor personnel, including subcontractors, shall limit the size and number of backpacks, purses, briefcases, and other personal effects or carrying cases brought into the Facilities to conserve space. Large or suspicious carrying cases are subject to inspection at any time.

1.12 Prior to the commencement of the Term, Contractor shall undertake and complete pre-assignment training using best industry practices, including, at a minimum, essential duties and responsibilities; Facility orientation; evacuation procedures; basic first aid, including cardio pulmonary resuscitation and automated external defibrillator operation; responding to an emergency; providing assistance to the disabled in a respectful manner; preparing reports; and post-specific training. Contractor shall provide the same level of training to all new employees and contractors, and shall conduct continuing training courses for all personnel on an annual basis. All training shall be documented, and such documentation shall be available promptly upon request from HFC.

## **II. Essential Duties**

2.1 Contractor assumes and accepts the duty and obligation to provide the Services in a manner that promotes a safe and secure environment for HFC, its employees, agents, officers, directors, contractors, licensees, and invitees. Contractor personnel shall vigilantly observe, monitor, and report on security matters and incidents relating to the Facilities or resulting from the use and occupancy thereof, and work actively to discourage and prevent intrusion, unauthorized entry, theft, larceny, vandalism, abuse, fire, terrorism, and trespass or other criminal activity on the designated premises of HFC.

2.2 Duties of the Project Manager shall include, but not be limited to, all of the following:

- a. Preparation and distribution of weekly work schedules to General Managers, including schedules of relief personnel;
- b. Monitoring and responding to attendance and disciplinary issues;
- c. Maintaining all Post Order in a central file and ensuring that all Supervisors and Security Officers have direct access to true and correct copies of the appropriate Post Orders;
- d. Ensuring that Daily Activity Reports and scanner/button-round reports are accessible to HFC at all times, and distributing copies by email as requested by General Managers;
- e. Scheduling and conducting training sessions for Contractor personnel; and
- f. Providing incident reports to the General Managers, HFC General Counsel, and other as directed, within 24 hours following any incident at a Facility.

2.3 Contractor shall work cooperatively with HFC to develop, refine and update emergency procedures for all foreseeable hazards and the Facilities, including severe weather. Contractor shall ensure that all of its personnel are trained and able to recognize and respond to emergencies, including the implementation of emergency procedures.

2.5 Security Officers shall, at all times, be polite, courteous, respectful, neat in appearance, and responsive to any person authorized to be at the Facilities.

2.6 All Security Officers and Supervisors must be able to understand and follow specific Post Orders and event information for the Facility to which they are assigned. Contractor personnel are required to provide accurate information to clients and customers of the Facilities upon request.

2.7 Contractor shall be responsible for monitoring and responding to fire alarms at the Facilities and operating a dispatch center designated by HFC 24 hours per day, seven days per week. Contractor may be directed to assist HFC in the review of security camera footage and the effective placement of such systems.

2.8 Contractor shall develop written post orders (each a "Post Order") to ensure the effective and efficient provision of the Services in all respects, with a special emphasis on the requirements and operations specific to each Facility, such as events, tenants, and in-house contractors. Initial Post Orders for each location assignment shall be completed by the Contractor no later than 30 calendar days after the Effective Date or 30 calendar days prior to commencement of the Term, whichever is earlier. Contractor shall review Post Orders with each General Manager at least twice per calendar year, and Contractor shall recommend changes proactively based on its experience and expertise. Post Orders shall consist of the following information, per location: (a) A listing of the number of Security Officers and Supervisors required, the days and hours during which Services are required, including specific work shifts; (b) A list and description of any and all equipment required; (c) A description of the location of security posts; (d) any relevant maps, floorplans or diagrams; (e) A description of required procedures for logging or recording persons and materials to the Facilities, if required; (f) A description of the geographical locations where Services are to be performed, including a description of required patrol routes and checkpoints, if any; (g) Contact information for the Project Manager, Assistant Project Manager, General Manager, first responders, and others as needed; and (h) Any other specific instructions as to the particular Facility involved. Post Orders shall remain in effect and may not be altered or amended unless submitted in writing to Contractor by HFC. Amended Post Orders shall take effect immediately or upon the date specified in the notice. HFC may direct that a Post Order be modified at any time during the Term of the Agreement.

2.9 Each roving Security Officer must cover buildings, parks, and vast parking areas as well as stairwells and tunnels to prevent trespassing, vandalism, sabotage, injury and liability in accordance with the Post Orders. Security personnel shall check all elevators, stairwells, and recessed hiding places on a scheduled basis.

2.10 Supervisors or Security Officers may be required to issue temporary identification badges to visitors and permanent photo identification badges to staff and to contractors as required by General Managers. HFC will provide temporary badges and the equipment to provide the permanent identification badges.

2.11 Contractor shall ensure that at least one trained and licensed supervisor per shift shall carry a firearm. HFC reserves the right to require additional Supervisors to carry firearms during natural disasters, emergencies or as otherwise required under a Post Order.

2.12 Contractor personnel shall use all reasonable measures to monitor and control the access of all persons to HFC Facilities as required by Post Orders or, in the absence thereof, as requested by General Managers.

Such measures may include requiring personal identification, bag inspections, and use of magnetometers and other screening devices.

2.13 Contractor personnel should be aware of the hours that lighting and air conditioning are scheduled in the particular Facility to which they are assigned. Following the Facility guidelines and schedules, Contractor personnel are to reduce lighting levels and air conditioning requirements to maintain energy efficiency and control costs. Doors to the Facilities, including loading dock doors, must be kept secured and shall not remain open, except as necessary to allow access by authorized users.

2.14 Contractor personnel stationed at the loading dock at Wortham Theater Center shall monitor the Buffalo Bayou flood gauge and alert HFC when the water level rises during heavy rains so that the flood gates can be deployed.

2.15 Contractor shall not replace or substitute a subcontractors without prior approval from HFC, which will not be unreasonably withheld. Subcontractors shall perform at the same standards as those required of Contractor. HFC shall have the right to determine the Facilities where subcontractor employees are assigned by Contractor to perform Services.

2.16 Contractor agrees that neither it nor its agents, subcontractors, or employees shall issue or make any statements on behalf of HFC with respect to either the Facilities or any incident occurring at any of the Facilities. Contractor shall not issue any publicity (oral or written) of any nature that references this Agreement without the prior written consent of HFC.

2.17 Contractor is responsible for ensuring that all personnel performing Services know the location of exits, fire suppression systems, emergency panels, automated external defibrillators, and emergency procedures for their assigned Facility.

2.18 Contractor shall ensure that personnel who operate golf carts or other motor vehicles drive in a safe manner and at a reasonable speed. Contractor shall check driving records of its employees who have work-related driving responsibilities pertaining to this Agreement on an annual basis. Contractor personnel operating motor vehicles of any kind must have a valid Texas driver's license with no restrictions. Contractor personnel shall be prohibited from driving a motor vehicle of any kind if he or she, in the preceding five years, has been convicted of a felony involving the use of a motor vehicle or driving while intoxicated or driving under the influence of a controlled substance in any jurisdiction.

### **III. Equipment Requirements**

3.1 Contractor shall procure and maintain, at its sole cost and expense, a commercially-reasonable inventory of high-quality equipment and supplies necessary to perform the Services at the Facilities, including, but not limited to, the specific equipment requirements set forth in this Section.

3.2 Contractor shall continuously inspect and test its inventory of equipment and supplies for indicia of excessive wear, fraying, malfunction, or other damage or defects and shall prevent use of same at the Facilities in any manner. Contractor shall promptly repair or replace excessively worn, malfunctioning, damaged, defective, vandalized, lost, or stolen equipment and supplies at no cost or expense to HFC.

3.3 Contractor shall periodically acquire new equipment during the Term to keep pace with technological advancements and to respond proactively to known threats or hazards.

3.4 Contractor shall label its equipment and supplies in a durable manner so as to ensure clear identification of ownership.

3.5 Contractor shall, at its sole cost and expense, provide its Project Manager, Assistant Project Manager and Supervisors with smart phones in sufficient quantity to ensure uninterrupted communication during performance of the Services and to capture photographs and other recordings as needed to document incidents, damage and other hazards. Smart phones may be shared from shift to shift, though they must be kept in good working condition at all times.

3.6 Contractor shall ensure that the Project Manager, Assistant Project Manager, and each Supervisor has access to an individual-specific email account as an additional means of communication. Further, Contractor shall ensure that the Project Manager and Assistant Project Manager have access to a desktop or laptop computer able to access the internet and with standard office software programs installed and operable.

3.7 Contractor shall ensure that all personnel are properly equipped, in accordance with security industry best practices, to provide and perform the Services at all times, including, at a minimum, a two-way radio, a flashlight, and a distinct uniform.

3.8 Contractor shall ensure its personnel wear a standardized uniform, at its sole cost and expense, including the Contractor's name and logo. Contractor shall provide its personnel with appropriate summer, winter and all-weather outdoor clothing, including raingear. All uniform clothing shall be cleaned and pressed.

3.9 Contractor shall procure and use, in the performance of the Services, at least four golf carts and four bicycles with helmets.

3.10 At each fixed post, including the Premises, Contractor shall provide at least one multi-unit radio charger and four spare batteries to ensure uninterrupted lines of communication at all times.

3.11 Contractor shall provide its Security Officers with security patrol wands in sufficient quantity to conduct button rounds in accordance with Post Orders. HFC estimates, in good faith, that 22 security patrol wands will be required.

3.12 Upon request from HFC, Contractor shall promptly provide a then-current list of all Contractor equipment stored at the Facilities.

#### **IV. Reports**

4.1 Contractor shall submit weekly work schedules to the General Manager of each of the Facility at least three calendar days in advance. General Managers reserve the right to direct the Contractor to adjust the weekly work schedules in their discretion.

4.2 Contractor shall immediately contact HFC and the appropriate authority (such as the Houston Police Department or Houston Fire Department) to report the occurrence of any incident involving criminal activity (or threat thereof), fire, medical emergency, or serious injury.

4.3 Contractor shall direct the Project Manager, Assistant Project Manager, and Supervisors to prepare a detailed report on each incident occurring at any time at the Facilities during performance of the Services, including, by way of example and not limitation, medical emergencies, accidents, injuries, theft or loss of property, Facility damage, faulty utility connections, trespass, vandalism, criminal mischief, unlawful conduct, or other extraordinary or unauthorized occurrence that affects or might reasonably be expected to affect the security or safety of the Facility, the property located thereon, or any person at the Facility. The Assistant Project Manager or appropriate Supervisor shall promptly acknowledge and respond to any

occurrence reasonably appearing to require creation of an incident report within 10 minutes of being contacted by a Security Officer, General Manager, or other HFC employee, agent or contractor. The responding Assistant Project Manager or Supervisor shall have the affirmative obligation to inspect and document the incident, including by taking photographs or other recordings, and to collect statements from witnesses. All incident reports shall be provided to the General Managers and HFC General Counsel electronically within 24 hours of occurrence.

4.4 Contractor shall ensure that Security Officers submit a written report for every eight-hour shift worked documenting all observations and activity occurring their assigned shift (“Daily Activity Report”). Such reports should include any unusual incidents or activity and note any operational problems with equipment or the button-round system. Daily Activity Reports should be written in a clear, concise manner and must be complete by 10:00 a.m. on the day following the shift.

4.5 Contractor shall document and report to the appropriate General Manager any material dereliction of Services duties observed or known by Contractor, including, by way of example and not limitation, unauthorized absence, abandonment of a post, or falling asleep while on duty. The report shall include the name of the employee, the post or position affected, and Contractor’s remedial efforts to provide Services.

4.6 To ensure accurate timekeeping and billing, Contractor shall use a biometric time clock or a similar time-keeping system, subject to approval by HFC, to verify and record the actual hours worked by personnel performing Services under this Agreement. Data collected must include, at a minimum, the name of each employee, the date, the times the employee worked, and such other information as HFC shall require. True and correct copies of such information shall be submitted by Contractor to HFC with each invoice.

4.7 Contractor shall make periodic oral or written reports and recommendations to HFC with respect to conditions, transactions, situations or circumstances encountered by the Contractor relating to the Services and attend meetings determined to be necessary by HFC. Contractor shall provide true and correct copies of any reports that HFC may request, orally or in writing, from the Project Manager or Assistant Project Manager.

4.8 In addition to inspecting the Facilities for security reasons, Contractor personnel shall be required to report safety hazards or conditions requiring repairs to the appropriate General Manager.

## **V. Premises**

5.1 HFC grants to Contractor a license to use and occupy a limited portion of one or more Facilities designated by HFC in its sole but reasonable discretion for office and storage purposes (the “Premises”). Such Premises shall be used by Contractor exclusively for the purposes of the provision of the Services, including storage of equipment and supplies. Contractor represents and warrants to HFC that equipment and supplies stored in the Premises shall be for the exclusive benefit of HFC in the performance of the Services by Contractor.

5.2 HFC makes no warranty or representation to Contractor of any kind, express or implied, regarding the suitability of the Premises, or any portion of the Facilities, as built, for any aspect of Contractor’s use or expected use of the Premises. The Premises is offered by HFC and accepted by Contractor in its current condition, on an “AS IS” basis. Commencement of the use of the Premises shall be conclusive that the Premises were in good repair and in satisfactory condition, fitness and order when such use commenced.

5.3 At the end of the Term, Contractor shall vacate and surrender the Premises to HFC in the same condition found before the commencement of the Term, excepting minor damage due to ordinary wear and tear. Should Contractor fail to vacate and surrender the Premises in such manner, then HFC may enter the

Premises, remove and store all property therein at the sole expense of Contractor and dispose of same if, after the expiration of 30 calendar days, Contractor has failed to remove the property from the possession of HFC.

5.4 In the Premises, Contractor shall arrange for, at its sole cost and expense, any furniture, furnishings, computers, copiers, and any other equipment and supplies necessary to ensure the orderly performance of the Services; provided, however, that Contractor shall be obliged to order and pay for any exclusive in-house services at the Facilities that Contractor may require, whether offered currently or subsequent to the Effective Date, including, by way of example and not limitation, telecommunications and food-and-beverage services. Additionally, Contractor acknowledges that HFC has or may have contractual sponsorship obligations requiring exclusivity with respect to certain products or brands and Contractor shall not take any action that might in any manner or to any extent conflict with or challenge such commitments or obligations to such sponsors, as determined by HFC.

5.5 At Contractor's sole cost and expense, Contractor may construct or install fixtures or permanent improvements in the Facility, including the Premises; provided, however, that all such fixtures and improvements shall have the prior written approval of HFC and shall in all respects conform to and comply with all applicable statutes and ordinances. Title to all such fixtures and improvements shall vest in HFC upon the termination or expiration of this Agreement and shall not be removed by Contractor.

5.6 Contractor acknowledges that, in order for the Facilities to be operated as efficiently as practicable, it may be necessary to schedule or share certain services and equipment including, but not limited to, entrances, exits, ramps, loading docks, receiving areas, marshaling areas, freight elevators, and parking areas. Contractor agrees to work cooperatively with other contractors and users of the Facilities; in the event of a conflict, HFC shall have final authority to establish the reasonable schedules for the use and availability of such services and equipment and to determine when, and the extent to which, the sharing of any such services and equipment is necessary or desirable.

5.7 HFC may elect to modify the Premises or relocate Contractor from the Premises to another space that is owned, operated or controlled by HFC, without the consent of Contractor, by giving Contractor at least 60 calendar days' prior notice. Such relocation notice shall specify the effective date of the relocation from the Premises Contractor is then occupying and the space to which Contractor is being relocated, and Contractor shall surrender the Premises Contractor is then occupying in accordance with the provisions of this Section on or before the stated effective date. In accomplishing such relocation, HFC and Contractor shall reasonably cooperate with one another, and consult with one another in good faith, so as to reduce or limit, insofar as reasonably practical, the effects of the necessary disturbance or disruption of the Services.

5.8 Contractor shall abide by the Office Space Rules and Regulations attached hereto as Exhibit "B" and made a part hereof by this reference. HFC, in its sole discretion, shall have the right to establish additional, equitable rules and regulations applicable to all office space occupants and to adopt amendments to the same from time to time for the proper and efficient operation and/or maintenance of common areas of the Facilities, or any portion thereof. All rules and regulations shall be applicable to and enforced against all office space occupants of the Facilities in a uniform and non-discriminatory manner.

**EXHIBIT “B”**  
**OFFICE SPACE**  
**RULES AND REGULATIONS**

Contractor agrees to and shall abide by these Office Space Rules and Regulations (“Rules and Regulations”) for the duration of the Term, including any extension thereof. Terms capitalized herein, but not defined herein, shall have the meaning ascribed to them in the foregoing Agreement. In the event of a conflict between such Agreement and any provision of the Rules and Regulations, the Agreement shall control and prevail.

1. Contractor shall take all reasonable measures to protect the carpet at the Facilities and shall use Masonite® or Visqueen® when moving equipment or supplies in carpeted areas.
2. Golf carts, Cushman® utility vehicles, Segway® vehicles, bicycles and similar transportation devices are prohibited in carpeted areas of the Facilities.
3. Sidewalks, halls, passages, exits, entrances, elevators, loading docks, sky bridges, and stairways at the Facilities shall not be blocked or obstructed by Contractor.
4. Deliveries and the movement of freight/equipment shall be through loading docks, freight doors and freight elevators designated by HFC; the main lobbies, sky bridges, escalators, and passenger elevators shall not be used for such purposes. Additionally, HFC reserves the right to limits or restrict the hours during which such activities may occur.
5. Contractor shall maintain the Premises in a clean and orderly fashion.
6. The Premises shall not be used for lodging. No cooking or meal preparation shall be permitted in the Premises, except for approved microwave ovens and equipment for brewing coffee, tea and hot beverages.
7. No sign, placard, picture, name, advertisement, or notice visible from the exterior of the Premises shall be inscribed, painted, affixed or otherwise displayed by Contractor without the prior written consent of HFC.
8. Contractor shall not use any method of heating or air conditioning in the Premises other than that supplied by HFC.
9. Contractor shall use utilities in the Premises and GRBCC sparingly and efficiently (e.g., turn lights and power off when not in use).
10. Contractor shall ensure that the doors of the Premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before Contractor personnel leave the Premises.
11. Restrooms, toilets, urinals, wash bowls, and other apparatus shall not be used for any purpose other than that for which they were constructed. No foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage, or damage resulting from the violation of this rule shall be borne exclusively by Contractor.
12. Contractor shall not offer, sell or permit the sale of newspapers, magazines, periodicals, drinks, snacks, sundries, theatre/travel tickets, or similar merchandise to the general public in the Premises or the Facilities.

13. Unless otherwise explicitly provided in the Agreement, Contractor shall not install any radio, television or other data transmission antenna, satellite dish, loudspeaker or other device on the roof or exterior walls of the Facilities.
14. Contractor shall not use occupy or permit any portion of the Premises to be used or occupied for the storage, manufacture, or sale of alcohol or tobacco.
15. Contractor shall not store any hazardous materials, including biohazards, in the Premises. Contractor shall not store gasoline, propane, kerosene, or other flammable or combustible fluids in the Premises.
16. Contractor agrees to pay HFC a reasonable charge for any keys Contractor may need to access the Facilities, including the Premises, and shall be liable for the cost of re-keying appropriate locks in the event any such key is lost or stolen.
17. Contractor's personnel shall enter and exit the Facilities through access locations approved by HFC, except during an emergency.
18. HFC shall have the right, excusable without notice and without liability to any Contractor, to change the name or street address of a Facility or any portion thereof.
19. Smoking is prohibited inside the Facilities, including the Premises, and within 15 feet of any Facility entry/exit door. Contractor shall comply with all City of Houston workplace smoking ordinances and regulations, as may be amended from time to time.
20. Contractor shall not request any HFC employee to perform any work or do anything outside of their regular duties, except as necessary during an emergency, without the prior written consent of HFC.
21. Contractor shall comply with such restrictions and regulations concerning the use of parking facilities serving the Facilities as HFC may impose from time to time.
22. These Rules and Regulations are in addition to and shall not be constructed to in any way modify or amend, in whole or in part, the agreements, covenants, conditions and provision of any lease, sublease, or license to use and occupy any portion of the Facilities.