



SERVICES AGREEMENT

THIS AGREEMENT is made and entered into _____, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "**CITY**," and **GUARDIAN SECURITY & INVESTIGATIONS, INC.**, of 1902 1st Avenue North, Billings, MT 59101, hereinafter referred to as "**CONTRACTOR**."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PURPOSE:** **CITY** agrees to hire **CONTRACTOR** as an independent contractor to perform the services of Billings Public Library Security Guard services described in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof.
2. **EFFECTIVE DATE:** This Agreement is effective upon the date of its execution and will terminate on June 30, 2022. The parties may extend this **AGREEMENT**, by mutual concurrence, for five (5) one-year terms, in writing prior to termination of each term.
3. **SCOPE OF WORK:** The **CONTRACTOR** shall perform the services outlined in Exhibit "A". In performing these services, the **CONTRACTOR** shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefor, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.
4. **PAYMENT:** **CITY** agrees to pay **CONTRACTOR** the fees listed in the Scope of Work in Exhibit "A". Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the **CITY** to **CONTRACTOR** and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

Except as otherwise specified herein, the **CONTRACTOR** shall invoice the **CITY** monthly (or on such other basis as the Parties may mutually determine) for all services rendered pursuant to this Agreement. Such invoices shall specify the services provided to the **CITY** during the preceding month and identify the applicable fees, and shall be accompanied by reasonable documentation or other reasonable explanations supporting such charges.

Two officers will be assigned to the facility unless the parties mutually agree in writing to decrease or increase the number of officers.

5. **INDEPENDENT CONTRACTOR STATUS:** The parties agree that **CONTRACTOR** is an independent contractor for purposes of this Agreement and may not to be considered an employee of the **CITY** for any purpose. **CONTRACTOR** is not subject to the terms and provisions of the **CITY's** personnel policies handbook and may not be considered a **CITY** employee for workers' compensation or any other purpose. **CONTRACTOR** is not authorized to represent the **CITY** or otherwise bind the **CITY** in any dealings between **CONTRACTOR** and any third parties.

6. **INDEMNITY:**

The **CONTRACTOR** SHALL:

- A. Indemnify, defend and save **CITY**, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of **CONTRACTOR** or its agents or employees.
- B. Not indemnify, defend, save and hold the **CITY** harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the **CITY** occurring during the course of or as a result of the performance of the **AGREEMENT**.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both the **CITY** and the **CONTRACTOR**, the **CONTRACTOR** shall indemnify, defend, save, and hold the **CITY** harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the **CONTRACTOR'S** or any subcontractor's wrongful or negligent acts occurring as a result from the **CONTRACTOR'S** performance pursuant to this **AGREEMENT**.

The **CITY** SHALL:

- D. Indemnify, defend and save **CONTRACTOR**, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of **CITY** or its agents or employees.
- E. Not indemnify, defend, save and hold the **CONTRACTOR** harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the **CONTRACTOR**

occurring during the course of or as a result of the performance of the **AGREEMENT**.

- F. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both the **CONTRACTOR** and the **CITY**, the **CITY** shall indemnify, defend, save, and hold the **CONTRACTOR** harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the **CITY'S** or any subcontractor's wrongful or negligent acts occurring as a result from the **CITY'S** performance pursuant to this **AGREEMENT**.

7. **INSURANCE:** the **CONTRACTOR** shall maintain in good standing the insurance described in this Section. Before rendering any services under this **AGREEMENT**, the **CONTRACTOR** shall furnish the **CITY** with proof of insurance in accordance with this Section.

The **CONTRACTOR** shall provide the following insurance:

- Workers' compensation and employer's liability coverage as required by Montana law.
- Commercial general liability, including contractual and personal injury coverage's -- \$750,000 per claim and \$1,500,000 per occurrence.
- Automobile liability -- \$1,500,000 per accident.

Each policy of insurance required by this Section shall provide for no less than 30 days' advance written notice to the **CITY** prior to cancellation.

The **CITY** shall be listed as an additional insured on all policies except Worker's Compensation Policies.

CONTRACTOR shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. **CONTRACTOR** shall maintain workers' compensation insurance coverage for all members and employees of **CONTRACTOR's** business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.

CONTRACTOR shall furnish **CITY** with copies showing one of the following: **(1)** proof of registration as a registered contractor under Title 39, Chapter 9, MCA; **(2)** a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or **(3)** proof of exemption from workers' compensation granted by law for independent contractors.

8. **WARRANTY:** **CONTRACTOR** warrants that all services and work will be performed in a good workman-like manner. **CONTRACTOR** acknowledges that it will be liable for any breach of this warranty for the lesser period of one (1) year from the time services are completed or any warranty described in the Scope of Work in Exhibit "A".

9. **COMPLIANCE WITH LAWS:** **CONTRACTOR** agrees to comply with all federal, state, and local laws, ordinances, rules and regulations. **CONTRACTOR** agrees to purchase a **CITY** business license.

10. **NONDISCRIMINATION:**

A. **CONTRACTOR** shall, in performance of work under this Agreement, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. **CONTRACTOR** is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by **CONTRACTOR** subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016. **CONTRACTOR** agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Agreement.

B. The **CONTRACTOR** shall state, in all solicitations or advertisements for employees to work on jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.

The **CONTRACTOR** and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

The **CONTRACTOR** and any subcontractor shall abide by the requirements of 41 CRF 60-1.4, which states employees or applicants

may not be discharged or in any other manner discriminated against because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the **CONTRACTOR'S** legal duty to furnish information.

- C. The **CONTRACTOR** shall comply with any and all reporting requirements that may apply to it that the **CITY** may establish by regulation.
 - D. The **CONTRACTOR** shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
 - E. The **CONTRACTOR** shall include the provisions of Subsections A through D of this Section in every subcontract or purchase order under this **AGREEMENT**, so as to be binding upon every such subcontractor or vendor of the **CONTRACTOR** under this **AGREEMENT**.
 - F. The **CONTRACTOR** agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
11. **DEFAULT AND TERMINATION:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within ten (10) calendar days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.
12. **LIAISON:** **CITY's** designated liaison for this **AGREEMENT** is Jamie Bratlie and **CONTRACTOR's** designated liaison for this **AGREEMENT** is Pete Torgerson.
13. **GOVERNING LAW AND VENUE:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

14. **SEVERABILITY:** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the **CITY** and the **CONTRACTOR**, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
15. **SUCCESSORS AND ASSIGNS:** Neither the **CITY** nor the **CONTRACTOR** shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without the written consent of the other.
16. **OWNERSHIP OF DOCUMENTS:** All documents, data, drawings, specifications, software applications and other products or materials produced by the **CONTRACTOR** in connection with the services rendered under this Agreement shall be the property of the **CITY** whether the project for which they are made is executed or not. All such documents, products and materials shall be forwarded to the **CITY** at its request and may be used by the **CITY** as it sees fit. The **CITY** agrees that if the documents, products and materials prepared by the **CONTRACTOR** are used for purposes other than those intended by the Agreement, the **CITY** does so at its sole risk and agrees to hold the **CONTRACTOR** harmless for such use. All or any portions of materials, products and documents produced under this Agreement may be used by the **CONTRACTOR** upon confirmation from the **CITY** that they are subject to disclosure under the Public Disclosure Act. All services performed under this Agreement will be conducted solely for the benefit of the **CITY** and will not be used for any other purpose without written consent of the **CITY**. Any information relating to the services will not be released without the written permission of the **CITY**. The **CONTRACTOR** shall preserve the confidentiality of all **CITY** documents and data accessed for use in **CONTRACTOR's** work product.



IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

BUSINESS NAME (CONTRACTOR)

WILLIAM A. COLE, MAYOR

SIGNATURE

APPROVED AS TO FORM:

PRINT NAME

By _____
CITY ATTORNEY'S OFFICE

PRINT TITLE

ATTEST:

DENISE BOHLMAN, CITY CLERK



EXHIBIT A

Scope of Work

CONTRACTOR will assign two (2) security guards for the hours listed in the table below at the Billings Public Library, 510 North Broadway. **CITY** agrees to pay **CONTRACTOR** \$22.75 per hour per guard. The services would normally be provided during the following hours:

	<u>First Guard</u>	<u>Second Guard</u>
Monday – Thursday	8:45 am – 8:30 pm	3:00 pm – 8:30 pm
Friday	8:45 am – 6:30 pm	3:00 pm – 6:30 pm
Friday (Memorial Day to Labor Day)	8:45 am – 8:30 pm	3:00 pm – 8:30 pm
Saturday	8:45 am – 5:30 pm	8:45 am – 5:30 pm

CONTRACTOR and **CITY** may adjust the schedule by mutual written agreement. Additional hours may be required for special events outside normal library hours.

The Library is closed on City legal holidays and on Sundays. Security coverage will not be required on these days.

Security coverage will include, but not be limited to, patrol of the grounds and parking lots, the perimeter of the Library facility, and all publicly accessible areas of the facility while open, and other security duties as required by the Library Director.

Patrol duties will include, but not be limited to, observing and intervening to address criminal activities and violations of the Library's policies and guidelines for conduct, checking all doors and elevators for appropriate lock status; and other activities to enhance the safety and security of Library facility. Security will be required to escort Staff to the parking lot at close and remain on the lot until all staff have left the premises.

In addition, the firm will make provisions in a manner approved by the Library for radio or cellular telephone contact with Library staff. Security agents will be required to respond immediately upon contact by staff through this or other means.

Security agents will maintain regular communication with Library managers and/or designated staff, including submission of detailed daily reports.

Although no regular comprehensive coverage of facility is desired beyond the hours noted above, proposals should include random checks of the exterior and grounds of the facility from three (3) to six (6) times per evening including days when the Library is closed.

An employee of the Firm may not use his official position, including information learned by virtue of his position, for his personal benefit during the time spent performing services for the Library.