



## **AGREEMENT FOR CROSSING GUARD SERVICES**

This AGREEMENT FOR CROSSING GUARD SERVICES (the "Agreement") is dated April 5, 2023 and is between the CITY OF BRYAN, TX (hereinafter called the "City"), and ALL CITY MANAGEMENT SERVICES, INC., a California corporation (hereinafter called the "Contractor").

### **WITNESSETH**

The parties hereto have mutually covenanted and agreed as follows:

1. This Agreement is for a period which commences on or around July 1, 2023 and ends on June 30, 2024 and for such term thereafter as the parties may agree upon by written amendment to this contract. Service shall begin on a best availability basis until such a time as Contractor has hired, trained and deployed Crossing Guards to all sites requested by the City. Contractor shall assume liability for only those sites agreed to by both Contractor and the City by written amendment stating effective date of assignment.
2. The Contractor will provide sufficient personnel to meet the City's Crossing Guard requirements during the term of this agreement and any renewals and extensions thereof. Said personnel shall be equipped and trained as provided in the contract documents. Such personnel shall be herein referred to as a "Crossing Guard". Contractor is an independent contractor and the Crossing Guards furnished by it shall at all times be its employees and not those of the City. Contractor agrees to conduct background checks on all Crossing Guards prior to employing them to provide services under this Agreement. Such background check will include, but are not limited to, a review of the sex offender registry for each state of residence for the Crossing Guard over the past ten (10) years. Contractor shall not employ Crossing Guards who are required to register as a sex offender or who have been convicted of a felony (allowed by Federal Employment Guidelines) within the past ten (10) years.
3. The City's representative in dealing with the Contractor shall be the Administrative Bureau Chief or some alternative representative designated by the City of Bryan.
4. The City shall determine the locations where Crossing Guards shall be furnished by the Contractor. The Contractor shall provide at each designated location personnel properly trained as herein specified for the performance of duties as a Crossing Guard. The Contractor shall provide supervisory personnel to see that Crossing Guard activities are taking place at the required places and times.
5. The Contractor shall maintain adequate reserve personnel to be able to furnish alternate Crossing Guards in the event that any person fails to report for work at the assigned time and location and agrees to provide immediate replacement.
6. In the performance of its duties the Contractor and all employees of the Contractor shall conduct themselves in accordance with the conditions of the Contract Documents and all applicable laws of

the state in which the Services are to be performed.

7. Persons provided by the Contractor as Crossing Guards shall be trained in all applicable laws of the state in which the Services are to be performed pertaining to general pedestrian safety in school crossing areas.
8. Crossing Guard Services (the "Services") shall be provided by the Contractor at the designated locations on all days in which school is in session in the area under City's jurisdiction. The Contractor also agrees to maintain communication with the designated schools to maintain proper scheduling.
9. The Contractor shall provide all Crossing Guards with apparel by which they are readily visible and easily recognized as Crossing Guards. Such apparel shall be uniform for all persons performing the duties of Crossing Guards and shall be worn at all times while performing said duties. This apparel must be appropriate for weather conditions. The Contractor shall also provide all Crossing Guards with hand-held Stop signs and any other safety equipment which may be necessary.
10. The Contractor shall at all times provide workers' compensation insurance covering its employees and shall provide and maintain liability insurance for Crossing Guard activities. The Contractor will provide to the City of Bryan a Certificate of Insurance naming the City and its officials, officers and employees as additional insureds. Such insurance shall include commercial general liability with a combined single limit of not less than \$1,000,000.00 per occurrence and \$2,000,000 in aggregate for property damage and bodily injury; Worker's Compensation Insurance in the limits required by state law; and Business Automobile Liability Insurance in the amount of \$1,000,000 each accident. Such insurance shall be primary with respect to any insurance maintained by the City and shall not call on the City's insurance contributions. Such insurance shall not be canceled, reduced in coverage or limits or non-renewed except after thirty (30) days written notice has been given to the City. Insurance shall be on standard policies with customary deductibles, provided the Contractor is solely responsible for any costs associated with deductibles, coinsurance penalties, or self-insured retention. Insurance shall be from a company admitted to do business in the State of Texas and rate A-; VI or better by AM Best Insurance Rating, or equivalent. Evidence of insurance must be provided to the City annually within thirty (30) days of renewal or the Agreement may be terminated.
11. Contractor agrees to defend, indemnify and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions, claims for damages to persons or property, penalties, obligations or liabilities (each a "Claim" and collectively, the "Claims") that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the sole negligent acts or omissions, or willful misconduct, of Contractor, its agents, employees, subcontractors, representatives or invitees.
  - a) Contractor will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses including attorney's fees incurred in connection herewith.
  - b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims, damages, penalties, obligations or liabilities.

- c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the sole negligence of Contractor hereunder, Contractor agrees to pay City, its officers, agents, or employees, any and all costs and expenses incurred by the City, its officers agents or employees in such action or proceeding, including, but not limited to, reasonable attorney's fees.
  - d) In the event that a court determines that liability for any Claim was caused or contributed to by the negligent act or omission or the willful misconduct of City, liability will be apportioned between Contractor and City based upon the parties' respective degrees of culpability, as determined by the court, and Contractor's duty to indemnify City will be limited accordingly.
  - e) Notwithstanding anything to the contrary contained herein, Contractor's indemnification obligation to City for Claims under this Agreement will be limited to the maximum combined aggregate of Contractor's general liability and umbrella insurance policies in the amount of \$5,000,000 (Five Million Dollars).
  - f) Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable.
12. Either party shall have the right to terminate this Agreement by giving sixty (60) days written notice to the other party. Such written notice must include a roster of Crossing Guards employed at that time, as well as contact information for all of them.
  13. The Contractor shall not have the right to assign this Agreement to any other person or entity except with the prior written consent of the City.
  14. The City agrees to pay the Contractor for the Services rendered pursuant to the Contracts Documents the sum of Twenty-four Dollars and Twenty-six Cents (\$24.26) per hour, per guard for the contract period. The Contractor has based pricing upon twenty (20) total Crossing Guards with 7,488 hours of billable service (includes 288 hours for summer school coverage) contractor estimates a Not to Exceed price of \$181,659.00 for contract year one (1) based upon 7,488 hours. Contractor shall not bill for services if Contractor fails to perform services as agreed by the City.
  15. Payment is due within thirty (30) days of receipt of Contractor's properly prepared invoice. Invoices shall be sent to the City of Bryan Finance Department at P.O. Box 1000, Bryan, Texas 77805-1000, unless sent by parcel service or personal delivery, in which case they can be sent to 300 S. Texas Ave. Bryan, Texas 77803.
  16. Contractor may request a price increase during the term as a result of any legally-mandated increases in wages or benefits imposed in the state or municipality in which the Services are to be performed and to which Contractor's employees would be subject. Contractor shall provide City with sixty (60) days' notice of its request to increase pricing. City agrees to review and respond to said notice within thirty (30) days of receipt.
  17. The City shall have an option to renew this Agreement. In the event this Agreement is extended beyond the end of the initial term, the compensation shall be agreed to in writing by both parties.

18. This Agreement constitutes the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof and supersedes all prior written or oral statements among the parties, including any prior statements, warranties, or representations. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, administrators, executors, successors, and assigns. Each party hereto agrees that this Agreement will be governed by the law of the state in which the Services are to be performed, without regard to its conflicts of law provisions. Any amendments, modifications, or alterations to this Agreement must be in writing and signed by all parties. There will be no presumption against any party on the ground that such party was responsible for preparing this Agreement or any part of it. Each provision of this Agreement is severable from the other provisions. If any provision of this Agreement is declared invalid or contrary to existing law, the inoperability of that provision will have no effect on the remaining provisions of the Agreement which will continue in full force and effect.
19. Disclosure of Interested Parties. Per Section 2252.908 of the Texas Government Code, Contractor must fill out a conflict of interest form ("Disclosure of Interested Parties") at the time the Agreement is signed. For further information please go to the Texas Ethics Commission website via the following link <https://www.ethics.state.tx.us/fillinginfo/1295/>
20. Boycotts Israel. Contractor represents and warrants that it is a Company that does not Boycott Israel, as those terms are defined by Texas Government Code Chapter 2271, at the time of the execution of this Agreement and that, except to the extent otherwise required by applicable federal law, will not Boycott Israel during the term of this Agreement.
21. Government Code Chapter 2252 Subchapter F. Contractor represents and warrants that it is not a Company with which the City is barred from entering into a Governmental Contract pursuant to Texas Government Code sections 2252.152 and/or 2252.153 as those terms are defined in section 2252.151.
22. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.
23. Texas law to apply. This Agreement shall be construed under and in accordance with the law of the State of Texas and the obligations of the parties created hereunder are performable by parties in the City of Bryan, Texas. Venue for any litigation arising under this Agreement shall be in court of appropriate jurisdiction in Brazos County, Texas.
24. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any and all other legal remedies. Said rights and remedies are provided in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

25. No Waiver. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent or waiver of or excuse of any other different or subsequent breach.
26. Notices. Any notices required to be provided pursuant to this Agreement are deemed provided within three (3) days after being sent via U.S. Certified Mail, Return Receipt Requested, to the address provided herein. City and Contractor hereby designate the following individuals to receive any notices required to be submitted pursuant to the terms of this Agreement:

**CITY**

City of Bryan  
Attn: City Manager  
P.O. Box 1000  
Bryan, Texas 77805-1000

**CONTRACTOR**

All City Management Services  
Attn: Demetra Farwell, Corporate Secretary  
10440 Pioneer Blvd, Ste. 5  
Santa Fe Springs, CA 90670

**[SIGNATURES FOLLOW ON NEXT PAGE]**

Executed to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year written below.

**CITY**

**CONTRACTOR**

City of Bryan, TX

All City Management Services, Inc.

By \_\_\_\_\_  
Signature

By   
D. Farwell, Corporate Secretary

\_\_\_\_\_  
Print Name and Title

Date \_\_\_\_\_

Date 4/5/23

**ATTEST**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

Date \_\_\_\_\_

APPROVED TO AS FORM.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

Date \_\_\_\_\_