

RESOLUTION NO. 14-573

A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO ENTER INTO A TEMPORARY SECURITY GUARD AGREEMENT WITH ALLIED BARTON SECURITY SERVICES LLC OF CONSHOHOCKEN, PENNSYLVANIA, UNTIL A NEW REQUEST FOR PROPOSAL PROCESS FOR SECURITY SERVICES IS COMPLETED, IN THE NOT-TO-EXCEED AMOUNT OF \$30,000.00. FUNDS AVAILABLE IN ACCOUNT NO. 120-1429-582.59-02

WHEREAS, on November 3, 2014, the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") Board of Directors voted to terminate the contract for security services with Vets Securing America for breach of contract based on non-performance; and

WHEREAS, on November 3, 2014, the PAEDC Board of Directors voted to enter into a temporary security guard service agreement with Allied Barton Security Services LLC of Conshohocken, PA, in an amount not-to-exceed \$30,000.00, as shown in **Exhibit "A"**; and

WHEREAS, on November 11, 2014, the City Council approved terminating the contract for security services with Vets Securing America for breach of contract based on non-performance and failure to provide security services to the Spur 93 Business Park; and

WHEREAS, on November 11, 2014, the City Council approved PAEDC entering into a temporary security guard service agreement with Allied Barton Security Services LLC. in an amount not-to-exceed \$30,000.00, as shown in **Exhibit "A"**; and

WHEREAS, Allied Barton Security Services LLC will provide unarmed officer(s) to provide security services to the Spur 93 Business Park Monday through Friday from 6:00 p.m. to 6:00 a.m. and from Saturday through Monday from 6:00 p.m. to 6:00 a.m.; and

WHEREAS, the term of the contract will be from November 12, 2014 to January 1, 2015 or until the request for proposal process is complete and a new security guard service is procured; and

WHEREAS, the billing rate will be \$22.00 per hour, \$30.00 per hour OT/Holiday plus a vehicle rental cost of \$1,576.24 from November 12, 2014 through January 1, 2015, and Allied Barton Security Services LLC will direct bill back for fuel and pay \$60.00 for a cell phone.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR, TEXAS:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That PAEDC is herein authorized to enter into a temporary security guard service agreement with Allied Barton Security Services LLC, in an amount not-to-exceed \$30,000.00, as shown in **Exhibit "A"**.

Section 3. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

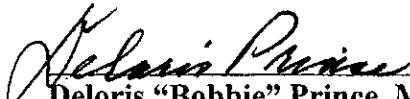
READ, ADOPTED AND APPROVED on this 11th day of Nov. A.D., 2014, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:


Mayor Prince; Mayor Bo Lem Freeman

Councilmembers Scott, Albright, Mosely, Lewis and Williamson

NOES: None


Deloris "Bobbie" Prince, Mayor

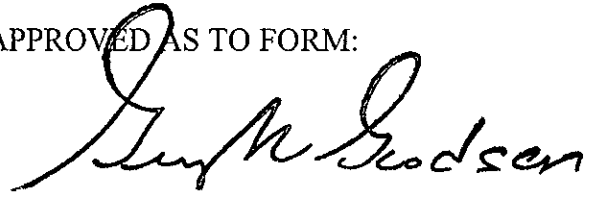
ATTEST:


Sherri Bellard, City Secretary

APPROVED:


Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:


Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

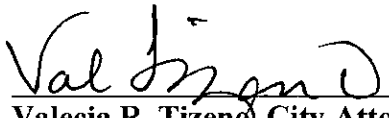

Valecia R. Tizeno, City Attorney

EXHIBIT "A"

TEMPORARY SECURITY OFFICER SERVICE AGREEMENT

THIS AGREEMENT, made this Friday, October 24, 2014 by and between AlliedBarton Security Services LLC (hereinafter "AlliedBarton"), 1771 W Diehl Rd - Suite 210, Naperville IL 60563, with its principal place of business at Eight Tower Bridge, 161 Washington Street - Suite 600, Conshohocken, PA 19428, and Port Arthur Economic Development Corporation (hereinafter "<Client>") 4173 39th Street, Port Arthur, TX 77642, is for temporary security officer services for Client's location at 4173 39th Street, Port Arthur, TX 77642. As herein and for other good and valuable consideration set forth below, the sufficiency of which is hereby acknowledged, AlliedBarton and Client agree as follows:
The term of this Agreement is for one officer on beginning November 3, 2014, the date of execution of a permanent agreement or on such earlier date as terminated by either party for any reason upon written notice.

A. Scope of Services

1. The purpose of any inspection of the premises at Client's location by AlliedBarton is solely to assist Client with its loss control program. The safe maintenance of those premises and operations and equipment on those premises, and the avoidance of unsafe conditions and practices, is the responsibility of Client.
2. AlliedBarton shall provide security officer services (the "Services") in the amount and for the times and rates set forth in Addendum "A" attached hereto and incorporated herein. AlliedBarton does not warrant or guarantee that the Services set forth in Addendum "A" constitute complete security at Client's location so as to prevent any incident, loss, theft, damage or injury (including death). Client agrees that AlliedBarton has not been engaged as a security consultant with respect to its location. AlliedBarton does agree to provide the Services in a professional and diligent manner.
3. Notwithstanding anything to the contrary provided herein or in any other direction (oral or written), AlliedBarton and Client agree that in no event shall AlliedBarton employees be required to undertake any duty which could potentially expose themselves to unreasonable risk or harm.

B. Personnel

1. AlliedBarton is responsible for the hiring, training and supervision of all security officers assigned to Client's location. Should Client direct or supervise security officers, or alter or change the direction or supervision given to the security officers at its location by AlliedBarton, Client will be responsible for any damages, liabilities, claims or other consequences that may result.
2. Client acknowledges that AlliedBarton has spent considerable time and expense in recruiting and training its employees. As such, Client agrees that it will not employ, as a security officer or in any related capacity, directly or indirectly, including employment through a successor security contractor, any person who has been employed by AlliedBarton in a supervisory capacity and assigned to Client's location for a period of one hundred and eighty (180) days following the last date of that person's employment with AlliedBarton. In the event of a breach of this provision by Client, Client shall pay AlliedBarton the average weekly billing for such employee for four (4) months as liquidated damages together with all legal fees, costs and disbursements arising from the breach of this provision.
3. AlliedBarton shall provide uniforms for all assigned personnel. AlliedBarton's personnel will not be required to carry weapons of any kind, unless otherwise expressly set forth herein.
4. Security officers assigned to Client's location are employees of AlliedBarton, which is acting as an independent contractor.

C. Billing

1. AlliedBarton will invoice Client on a weekly basis for all hours scheduled for the preceding weekly period (starting on Friday and ending the following Thursday) at the rates set forth in Addendum "A" (the "Billing Rates") and any associated costs. Client shall pay in full the amount of all invoices submitted to Client within thirty (30) days of the invoice date. AlliedBarton's fees and charges do not include any local, state, federal or foreign taxes, levies or duties of any nature ("Taxes"). Client is responsible for paying all Taxes in respect of AlliedBarton's services and amounts payable by Client hereunder, excluding only taxes based on AlliedBarton's income. If AlliedBarton has the legal obligation to pay or collect Taxes for which Client is responsible under this section, the appropriate amount shall be promptly paid by Client to AlliedBarton unless Client

provides AlliedBarton with a current, valid tax exemption certificate authorized by the appropriate taxing authority.

2. Client agrees to pay AlliedBarton one and one-half percent (1.5 %) per month interest or such maximum amount as permitted by law, whichever is less, on any invoice not paid within thirty (30) days of invoice date. In the event that legal action is required to collect on any past-due invoiced amount owed to AlliedBarton by Client under this Agreement, Client agrees to pay to AlliedBarton the costs and attorney fees incurred by AlliedBarton in such action.

D. Property

1. Client recognizes and acknowledges that in performing its duties under this Agreement, AlliedBarton may install and utilize proprietary software (hereinafter "Proprietary Software"), a valuable, special and unique asset of AlliedBarton and/or third parties. This Proprietary Software is and will remain the sole and exclusive property of AlliedBarton and/or those applicable third parties.
2. Furthermore, any other property, equipment or supplies furnished by AlliedBarton to its personnel in performance of the Services described in this Agreement shall remain the property of AlliedBarton and shall be returned to AlliedBarton promptly at the expiration or termination of this Agreement.

E. Insurance

1. AlliedBarton shall maintain and provide, at its expense, Workers' Compensation coverage for its security officers and personnel assigned to Client's location at limits imposed by statute, including Employer Liability coverage.
2. AlliedBarton shall maintain for its own protection and benefit various other policies of insurance including Comprehensive General Liability coverage for its performance of security officer Services at Client's location, among others.
3. Additionally, AlliedBarton shall maintain Automobile Liability insurance to cover its employees' operation of AlliedBarton's owned, leased and non-owned vehicles. However, to the extent that Client requires AlliedBarton officers and personnel to drive Client's vehicles in performance of the Services, Client agrees to carry Automobile Liability insurance for those vehicles with bodily injury and property damage limits of One Million Dollars (\$1,000,000.00) aggregate. Such insurance will be primary for any loss or damage occurring for Client vehicles operated by AlliedBarton officers or personnel in performance of the Services.
4. Client agrees that AlliedBarton is not an insurer of Client's operations, personnel or facilities. Client assumes all risk of loss, physical damage and personal injury at its operations, to its personnel and/or facilities or any other property resulting from fire, theft or other casualty, and Client waives any right of recovery and its insurers' right of subrogation against AlliedBarton for any loss or damage resulting from any such occurrence.
5. AlliedBarton shall not be liable for any loss, damage or injury or other claims arising out of the performance of the Services.
6. Under no circumstances will AlliedBarton be liable to Client, or any other person or entity, for consequential, incidental, indirect or punitive damages, or for lost profits.

F. Miscellaneous

1. This Agreement, including any exhibits and addenda, represents the entire agreement and understanding of the parties concerning the subject matter herein and replaces any and all previous agreements, understandings, representations, discussions or offers. No modification to this Agreement shall be effective unless reduced to

writing and executed by both parties.

2. A written waiver by either party of any of the terms or conditions of this Agreement at any time shall not be deemed or construed to be a waiver of such term or condition for the future or of any subsequent breach of the Agreement. The failure to enforce a particular provision of this Agreement shall not constitute a waiver of such provision or otherwise prejudice AlliedBarton's right to enforce such provision at a later time.

3. This Agreement is entered into solely for the mutual benefit of the parties hereto and no benefits, rights, duties or obligations are intended or created by this Agreement as to any third parties.

4. This Agreement and all matters collateral hereto shall be governed by the laws of the state wherein the Services are to be provided, without reference to its choice of law provisions.

5. If any of the terms or provisions of this Agreement are ruled to be invalid or inoperative, all the remaining terms and provisions shall remain in full force and effect.

6. AlliedBarton shall not be responsible for additional expenses and costs incurred by it to provide Services pursuant to this Agreement as a result of unusual circumstances including, but not limited to, strikes, riots, revolutions, wars, military actions, fires, floods, droughts, natural disasters, pandemics, snow storms, blizzards or other inclement weather, accidents, insurrections, lockouts or other acts of God, perils of the sea, stoppage of labor, or other events considered as "Force Majeure", or by any other unavoidable cause beyond AlliedBarton's reasonable control. All such additional expenses shall be the responsibility of Client as an additional charge invoiced and paid by Client as it is incurred, pursuant to the terms of the Billing section set forth above. Additionally, to the extent that AlliedBarton is unable to perform, or is delayed in performing, the Services set forth in this Agreement, such nonperformance or delayed performance is not a breach of this Agreement nor cause for termination of this Agreement.

7. Either party may assign this Agreement to an Affiliate with no change in ultimate ownership or control. "Affiliate" shall mean an entity controlling, controlled by or under common control with the party. Except as permitted in this section, Client may not assign, delegate or subcontract this Agreement without the prior written consent of AlliedBarton. Notwithstanding the foregoing, in the event Client assigns this Agreement, it shall remain liable obligations incurred hereunder prior to and after such assignment.

8. Any notice required or permitted hereunder shall be in writing and shall be delivered either in person, by nationally recognized overnight delivery service or by certified or registered mail, postage prepaid, addressed to the parties at the address shown in the opening paragraph (or as may be directed by a party in the future by written notice).

9. AlliedBarton has received a Certificate of SAFETY Act Designation from the Department of Homeland Security, which identifies AlliedBarton's physical security guard services as a Qualified Anti-terrorism Technology ("QATT"). In some cases, AlliedBarton may be utilizing QATT in performing services under this Agreement, either in their entirety or in combination with other, non-SAFETY Act covered services. Where this QATT has been deployed in defense against, response or recovery from an act of terrorism as that latter term is defined under the SAFETY Act (as herein defined), AlliedBarton and Client, purchaser of the QATT, agree to waive all claims against each other, including their officers, directors, agents or other representatives, arising out of the manufacture, sale, use or operation of the QATT, and further agree that each is responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity arising out of such act of terrorism. "SAFETY Act" is defined as the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-444, as amended. The provision shall apply throughout the term of this Agreement, regardless of whether AlliedBarton should cease to have SAFETY Act coverage for these Services for any reason.

The parties hereto, intending to be legally bound hereby, enter into this Agreement by their duly authorized representative as of the day and year first written above.

ALLIEDBARTON SECURITY SERVICES LLC

By: _____
Name: Katrina Larkin
Title: Business Development Representative
Date: October 24, 2014

Port Arthur Economic Development Corporation

By: _____
Name:
Title:
Date:

ADDENDUM "A" SCOPE OF SERVICES

AlliedBarton will provide unarmed officer(s) who will be diligent and report anything unusual or suspicious to management, police or both.

Service Details:
11/3/14 to 12/31/14
Monday through Thursday 6pm 6am
Friday to Monday 6pm to 6am

Bill Rate:
\$22.00 per hour
\$30 per hour OT/Holiday
\$1576.24- Vehicle rental Nov 3rd through Jan 1st
Direct bill back for fuel
\$60 for Cell phone