



Bismarck-Burleigh Public Health

DATE: September 11, 2020

FROM: Renae Moch, Public Health Director

ITEM: Burleigh-Morton COVID-19 Task Force Purchase Agreement

REQUEST:

Approval of contract to support the efforts of the Burleigh-Morton COVID-19 Task Force.

Please place this item on the 9/22/2020 City Commission meeting agenda.

BACKGROUND INFORMATION:

The Burleigh-Morton COVID-19 Task Force - vulnerable population subcommittee has identified a need for security service at a shelter identified to house vulnerable individuals who have contracted COVID-19 or need to quarantine due to close contact.

RECOMMENDED CITY COMMISSION ACTION:

Approve the attached contract.

STAFF CONTACT INFORMATION:

Renae Moch, MBA, FACMPE | Public Health Director, 355-11370 or rmoch@bismarcknd.gov

CONTRACT FOR SECURITY SERVICES

This SECURITY CONTRACT, made and entered into this 15th day of May 2020 by and between the parties to this CONTRACT (CONTRACT), which are the City of Bismarck, North Dakota, acting through the Bismarck-Burleigh Public Health Department (CITY) and ***Bismarck-Mandan Security Inc., 428 Airport Rd, Bismarck, ND 58504*** (BIS-MAN SECURITY). This CONTRACT is entered into pursuant to the City of Bismarck state of emergency declaration in relating to COVID-19 by the president of the City Commission dated August 12, 2020.

CITY and BIS-MAN SECURITY therefore enter into the following:

1. TERM OF THE CONTRACT

This CONTRACT runs from 10/01/2020 through December 31, 2021. This CONTRACT will not automatically renew.

2. SCOPE OF SERVICE

2.1. The CITY has established a site for a temporary shelter to serve vulnerable individuals who have tested positive for COVID-19. The temporary shelter is located at:

Bismarck Motor Motel located at 2301 East Main Avenue, Bismarck ND

2.2. The CITY may relocate the shelter or establish additional shelters as it deems necessary. The CITY will notify BIS-MAN SECURITY promptly after deciding to relocate any shelter or establish a new shelter.

2.3. BIS-MAN SECURITY shall provide security service at the shelter for seven (7) days per week and twenty-four (24) hours per day. The CITY will provide BIS-MAN SECURITY with a current list of shelter residents, which will include their room numbers and information regarding any known hazards or safety concerns.

2.4. Resident safety. Unless otherwise instructed by CITY, each Shelter resident is to remain in their own room at the Shelter at all times. No visitors are allowed in the designated resident area of the shelter other than medical care providers, social service personnel, and food delivery.

2.5. Use of PPE. BIS-MAN SECURITY officers will wear surgical masks, puncture-resistant gloves, and any other reasonably necessary personal protective equipment (PPE). At all times, while on duty at a shelter, BIS-MAN SECURITY officer will wear the proper PPE.

2.6. No use of force authorized. BIS-MAN SECURITY officers may not use armed or unarmed force of any kind against a resident or other individual, unless the situation meets the exception below. If a shelter resident leaves his or her room against instructions, if an unauthorized person attempts to gain entry to the shelter, attempts to gain access to a shelter resident's room, or gain access to a restricted area, and that individual will not respond to the instructions of the BIS-MAN SECURITY officer on duty, then the officer will 1) contact local law enforcement; and 2) contact the shelter manager or other Bismarck-Burleigh Public Health contact person. BIS-MAN SECURITY officers may use force as necessary in self-defense or defense of another from an imminent threat as provided defined by North Dakota Law.

2.7. Other procedures. BIS-MAN SECURITY and its officers shall follow the COVID-19 Emergency Shelter Safety and Security Procedures described in Attachment A to this CONTRACT, which is made a part of this CONTRACT by its attachment herein.

3. COMPENSATION

3.1. Weekly payments. CITY will pay BIS-MAN SECURITY \$42.00 per hour for on-site security for the shelter for which BIS-MAN SECURITY provides security services. Unless otherwise agreed by the Parties, the CITY shall make each monthly payment within 30 days of invoice during the term of this CONTRACT.

3.2. Purchasing Card. CITY may make a payment using a government credit card. OWNER will accept a government credit card without passing the processing fees for the government credit card back to CITY.

4. TERMINATION

4.1. Termination by Mutual CONTRACT or Notice. This CONTRACT may be terminated at any time by mutual consent of both parties executed in writing, or upon fourteen (14) days written notice by either party, with or without cause.

4.2. Early Termination in the Public Interest. CITY is entering into this CONTRACT for the purpose of carrying out the public policy of the CITY. If this CONTRACT ceases to further the public policy of the CITY, CITY, in its sole discretion, by written notice to BIS-MAN SECURITY, may terminate this CONTRACT in whole or in part.

4.3 Termination for Lack of Funding or Authority.
CITY may immediately terminate the whole or any part of this CONTRACT, effective upon delivery of written notice to BIS-MAN SECURITY or on any later

date stated in the notice, under any of the following conditions:

4.3.1. If funding from federal, CITY, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.

4.3.2. If federal or CITY laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this CONTRACT or are no longer eligible for the funding proposed for payments authorized by this CONTRACT.

4.3.3. If any license, permit, or certificate required by law or rule, or by the terms of this CONTRACT, is for any reason denied, revoked, suspended, or not renewed.

Termination of this CONTRACT under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

4.4. Termination for Cause

CITY may terminate this CONTRACT effective upon delivery of written notice to BIS-MAN SECURITY, or any later date stated in the notice:

4.4.1. If BIS-MAN SECURITY fails to provide services required by this CONTRACT within the time specified or any extension agreed to by CITY; or

4.4.2. If BIS-MAN SECURITY fails to perform any of the other provisions of this CONTRACT, or so fails to pursue the work as to endanger performance of this CONTRACT in accordance with its terms.

4.4.3. The rights and remedies of CITY provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this CONTRACT.

4.5. Termination for cause by BIS-MAN SECURITY. BIS-MAN SECURITY may terminate this CONTRACT effective upon delivery of a written notice to the CITY, or any later date stated in the notice if:

4.5.1. The CITY fails to timely make a weekly payment to BIS-MAN SECURITY, or

4.5.2. The CITY fails to timely perform any of the other provisions of this CONTRACT, or acts or fails to take any such action so as to frustrate BIS-MAN SECURITY's performance of its obligations under this CONTRACT

5. FORCE MAJEURE

The parties shall not be held responsible for delay or default caused by fire, flood, riot, acts of God, or war if the event is beyond a party's reasonable control, and the party gives notice to the other party immediately upon occurrence of the event that caused, or is reasonably expected to cause, the delay or default.

6. BIS-MAN SECURITY'S UNDERSTANDING OF TERM OF FUNDING

BIS-MAN SECURITY understands that this CONTRACT is a one-time CONTRACT and acknowledges that it has received no assurances that this CONTRACT may be extended beyond its expiration date.

7. BIS-MAN SECURITY ASSURANCES

7.1. This CONTRACT will be construed according to the laws of the State of North Dakota. In connection with furnishing supplies or performing work under this CONTRACT, persons who contract with or receive funds to provide services to CITY are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this CONTRACT, including the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the North Dakota Human Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, and the Pro-Children Act of 1994.

7.2. By signing this CONTRACT BIS-MAN SECURITY certifies that neither BIS-MAN SECURITY, Subcontractor, nor their principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with the CITY, State or federal government by any department or agency of the CITY, State or federal government.

8. AUTHORITY TO CONTRACT

BIS-MAN SECURITY may subcontract with qualified providers of services, provided that any subcontractor acknowledges the binding nature of this CONTRACT, and incorporates this CONTRACT, together with its attachments, as appropriate. BIS-MAN SECURITY is solely responsible for the performance of any subcontractor. BIS-MAN SECURITY may not contract for or on behalf of or incur obligations on behalf of CITY. BIS-MAN SECURITY may not assign or otherwise transfer or delegate any right or duty without CITY's express written consent.

9. INDEPENDENT ENTITY

BIS-MAN SECURITY is an independent entity under this contract. BIS-MAN SECURITY, its employees, agents, or representatives are not employees of CITY for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment

Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this CONTRACT may be construed to represent the creation of an employer/employee relationship between CITY and BIS-MAN SECURITY. BIS-MAN SECURITY retains sole and absolute discretion in the manner and means of carrying out BIS-MAN SECURITY's activities and responsibilities under this CONTRACT, except to the extent specified in this CONTRACT.

10. INDEMNITY

BIS-MAN SECURITY agrees to defend, indemnify, and hold harmless the CITY, its agencies, officers, and employees, from and against claims based on the liability of the BIS-MAN SECURITY or its agents, but not against claims based on the CITY's sole negligence or intentional misconduct. The legal defense provided by BIS-MAN SECURITY to the CITY under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the CITY is necessary. BIS-MAN SECURITY also agrees to defend, indemnify, and hold the CITY harmless for all costs, expenses, and attorneys' fees incurred if the CITY prevails in an action against BIS-MAN SECURITY in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this CONTRACT.

11. INSURANCE

BIS-MAN SECURITY shall secure and keep in force during the term of this CONTRACT and BIS-MAN SECURITY shall require all subcontractors, prior to commencement of any CONTRACT between BIS-MAN SECURITY and the subcontractor, to secure and keep in force commercial general liability or other applicable insurance covering BIS-MAN SECURITY'S activities under this CONTRACT. CITY shall be endorsed or otherwise made an additional insured under said policy(s).

12. NOTICE

Any notice or other communication required under this CONTRACT must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

Bismarck-Mandan Security Inc.
428 Airport Road,
Bismarck, ND 58504

and

City of Bismarck
Attn: Keith Hunke, City Administrator
221 North 5th Street / PO Box 5503
Bismarck, ND 58506-5503

13. INTEGRATION, MODIFICATION, AND CONFLICT IN DOCUMENTS

This CONTRACT constitutes the entire CONTRACT between BIS-MAN SECURITY and CITY. There are no understandings, CONTRACTs, or representations, oral or written, not specified within this CONTRACT. No alteration, amendment, or modification of this CONTRACT is effective unless it is reduced to writing, signed by the parties, and attached to the CONTRACT.

If any inconsistency exists between this CONTRACT and other provisions of collateral contractual CONTRACTs, which are made a part of this CONTRACT by reference or otherwise, the provisions of this CONTRACT control.

14. SEVERABILITY

If any term of this CONTRACT is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the CONTRACT does not contain the illegal or unenforceable term.

15. APPLICABLE LAW AND VENUE

This CONTRACT is governed by and construed according to the laws of the State of North Dakota. Any action to enforce this CONTRACT must be adjudicated exclusively in the State District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

16. INDEPENDENT ENTITY

BIS-MAN SECURITY is an independent entity under this CONTRACT and is not a BIS-MAN SECURITY employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. BIS-MAN SECURITY retains means of carrying out BIS-MAN SECURITY's activities and responsibilities under this CONTRACT, except to the extent specified in this CONTRACT.

17. ASSIGNMENT

Neither party may assign this CONTRACT or the party's rights under this CONTRACT without the written approval of the other party. Approval to assign may not be unreasonably withheld. This CONTRACT is equally binding on the respective parties and their successors and assigns.

18. SPOILIATION – PRESERVATION OF EVIDENCE

BIS-MAN SECURITY shall promptly notify CITY of all potential claims that arise or result from this CONTRACT. BIS-MAN SECURITY shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to CITY the opportunity to review and inspect the evidence, including the scene of an accident.

19. CONFIDENTIAL INFORMATION

BIS-MAN SECURITY shall not use or disclose any information it receives from CITY under this CONTRACT that CITY has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this CONTRACT or as authorized in advance by CITY. CITY shall not disclose any information it receives from BIS-MAN SECURITY that BIS-MAN SECURITY has previously identified as confidential and that CITY determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in North Dakota Century Code chapter 44-04. The duty of CITY and BIS-MAN SECURITY to maintain confidentiality of information under this section continues beyond the term of this CONTRACT, including any extensions or renewals.

20. COMPLIANCE WITH PUBLIC RECORDS LAWS

BIS-MAN SECURITY understands that, except for disclosures prohibited in this CONTRACT, CITY must disclose to the public upon request any records it receives from BIS-MAN SECURITY. BIS-MAN SECURITY further understands that any records obtained or generated by BIS-MAN SECURITY under this CONTRACT, except for records that are confidential under this CONTRACT, may be open to the public upon request under certain circumstances under the North Dakota open records law. BIS-MAN SECURITY agrees to contact CITY immediately upon receiving a request for information under the open records law and to comply with CITY's instructions on how to respond to the request.

21. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

CITY does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. CITY does not waive any right to a jury trial.

22. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

BIS-MAN SECURITY shall comply with all laws, rules, and policies, including those relating to nondiscrimination, accessibility, and civil rights. BIS-MAN SECURITY

shall timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation, and workers' compensation premiums. BIS-MAN SECURITY also shall have and keep current at all times during the term of this CONTRACT all licenses and permits required by law.

23. TIME IS OF THE ESSENCE

BIS-MAN SECURITY hereby acknowledges that time is of the essence for performance under this CONTRACT unless otherwise agreed to in writing by the parties.

24. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS

This CONTRACT, including the following documents, constitutes the entire CONTRACT between the parties. There are no understandings, CONTRACTs, or representations, oral or written, not specified within this CONTRACT. This CONTRACT may not be modified, supplemented or amended, in any manner, except by written CONTRACT signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this CONTRACT, the documents must control in this order of precedence:

- a. The terms of this CONTRACT as may be amended;
- b. Scope of Work (Attachment A)

BIS-MAN SECURITY SECURITY SERVICES USA, INC.

By Brendan Pines 09/10/2020
DATE

Its Operations Manager

45-0351431
BIS-MAN SECURITY's Federal Taxpayer Identification
Number

CITY OF BISMARCK

By _____
MAYOR STEVE BAKKEN DATE

**COVID-19 Homeless/DV Shelter
Security Officer Standard Operating Procedure's
(SOP) and
EMERGENCY SHELTER SAFETY AND SECURITY
PROCEDURES**

Security Officer Standard Operating Procedure's (SOP) and Emergency Shelter Safety and Security Procedures

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Hotel Shelter Security

Security Officer Standard Operating Procedure's (SOP)

REPORTING STRUCTURE

Chain-of-command

Security Officers report to the Security Supervisor, who reports to the Chief Operations Officer or designee.

Use of chain-of-command is mandatory. Security officers receive both standing orders and ad hoc directives from direct-line supervisory personnel in this chain-of-command and from no one else. The only exception is in the case of emergency.

MISSION

Basic Responsibilities

The Security Officer is charged with first line responsibility to:

- a. Assure the safety of persons, including staff and residence of the shelter.

Duties and Responsibilities

In fulfilling these three primary responsibilities (protection of persons, protection of property, and emergency-response services), the duties of security officers include, but are not limited to, the following:

1. Maintains position at security desk located on the established floor.
2. Periodically patrol the floor and maintains vigilance.
3. Respond to emergencies to provide necessary assistance to staff and residence.
4. Only allow mission support staff access to the floor: Ask for identification and purpose of prior to entry i.e. Medical Care Services, Behavioral Health Services, Shelter support services, hotel maintenance and housekeeping. No visitors are allowed.
5. Shelter residence are to remain in their assigned room. No hallway loitering is allowed.
6. Do not accept any deliveries for shelter residence. If available, refer individuals who present for deliveries to the shelter manager or designee.
7. Do not retain any personal items of the shelter residence.
8. Report any damage or any unusual or questionable or dangerous or suspicious conditions or activities to the shelter manager, designee or security supervisor.
9. Officers shall be courteous in the performance of their duties, shall exercise patience and discretion, and shall not engage in argumentative discussions regardless of provocation.
10. Security Officers will wear personal protective equipment.
11. Provide security support functions when requested by shelter management and support services staff.

COVID-19 EMERGENCY SHELTER SAFETY AND SECURITY PROCEDURES

1. WEAPONS PROCEDURE

Weapons will not be accepted for check-in or allowed in the facility. Shelter staff will make the determination as to what constitutes a weapon. Attempts to bring weapons into the facility will result in an immediate denial of service.

Banned Weapons

- Guns (including zip guns and BB guns)
- Knives (other than those specifically designated for legitimate vocational purposes-see list of items for check-in)
- Spears and swords
- Clubs, sticks and staves
- Explosive devices
- Martial arts weapons
- Brass knuckles
- Pepper spray/mace
- Stun guns
- Tasers
- Razors (including straight razors and razors with removable blades)
- Slingshots

2. VIOLENT BEHAVIOR PROCEDURE

An individual will be told to leave the shelter when staff has witnessed the person, or s/he has admitted to, being violent or physically intrusive inside the shelter, or s/he has repeatedly targeted another individual. This includes:

- Hitting, kicking, slapping, pushing
- Throwing objects at someone
- Any unwanted physical contact
- Being verbally abusive repeatedly to the same person

1. Staff will intervene in a conflict in the shelter and encourage those involved to work things out respectfully, offer to mediate, and name abusive behavior.
2. Staff will prioritize being in common areas with individuals when tensions are high.
3. Whenever possible, the decision to tell an individual to leave should be discussed with the Medical and Behavioral Health professionals.
4. When an individual has assaulted anyone in the shelter or been physically intrusive, aggressive (including unwanted touching) and staff have seen it, or the person has admitted it, s/he must leave.
5. Staff should be honest with the individual about why s/he is being asked to leave. If possible, help the person with their plans and provide him/her with alternatives. Staff should remain non-judgmental.
6. The individual may react angrily, and staff may be the target of that anger. If a staff member is concerned about personal safety and s/he is on shift alone, call in the security staff person before talking with the individual and, if necessary, notify the police.

3. DEALING WITH INAPPROPRIATE BEHAVIOR PROCEDURES

At the COVID-19 Emergency Shelter, our primary concern is housing and assisting individuals who are in crisis. We do our best to help individuals live within the guidelines that are necessary for maintaining the communal environment of the shelter. If at all possible, we want individuals to be able to continue their stay at the shelter. This can sometimes be a difficult task, especially when individuals act out in loud, rude or aggressive ways towards staff or other individuals. It is up to staff on shift to find a balance between ensuring the safety of the shelter (staff and individuals) and finding ways to assist the individual in maintaining a certain level of appropriate behavior.

If an individual has repeated instances of inappropriate behavior that jeopardizes the safe and communal atmosphere of the facility, an individual may be given warnings; placed on daily assess or evicted; or barred for a period of time.

Warnings

If an individual disregard the protocol and is not receptive to being told by staff that it is unacceptable behavior, s/he will be given a warning. It is important that the individual be made clearly aware of why s/he is being given the warning. If the individual receives too many warnings about the same unacceptable behavior s/he may be asked to leave. However, if an individual has several warnings on file, but on different topics, then this does not lead to him/her being asked to leave.

Evictions

A series of warnings followed by a final warning for threatening or unsafe behavior will lead to an eviction. A clear time limit for the individual to leave the building is given at this time.

Extremely threatening behavior towards staff or another individual will result in immediate eviction. If an individual is too aggressive, angry or out of control to leave the shelter on their own, the police can be called to escort the individual from the premises.

Barings

If an individual is unable to comply with the behavioral requirements of the shelter, especially if s/he cannot/will not follow conflict resolution procedures or is violent, s/he will be barred for a period of time. Once an individual has been evicted, his/her file is assessed by staff in order to determine if a barring is necessary, and if so, how long it will be in place.