

**NON-EXCLUSIVE TEMPORARY STAFFING AGREEMENT**  
**WITH ELITE EMPLOYMENT SERVICES, LLC**

This Temporary Staffing Agreement (hereinafter "Agreement") is made and entered into by and between the City of Laredo, Texas, a Home Rule City under Texas state law (hereinafter "City") and Elite Employment Services, LLC (hereinafter "Contractor"), a Domestic For-Profit Corporation.

**WHEREAS**, the City is hiring temporary staffing agencies (hereinafter "Temporary Staffing Agencies"), to provide City with qualified temporary labor as may be required from time to time by certain City departments;

**WHEREAS**, Contractor is a Temporary Staffing Agency;

**WHEREAS**, Contractor submitted a proposal to City in response to City's Request for Proposal (hereinafter sometimes referred to as "RFP") **FY22-065** issued by the City for temporary staffing services; and

**WHEREAS**, the City Council of the City of Laredo desires to enter into this Agreement with Contractor for services as one of its non-exclusive providers of temporary staffing services (hereinafter "Temporary Staffing Services") in accordance with the terms stated herein, in accordance with the City's Request for Proposal **FY22-065**, and in accordance with Contractor's response to **RFP FY22-065**. Contractor's response to City's Request for Proposal **FY22-065** is attached hereto as **Exhibit B** and incorporated herein by reference as if set out in full herein;

**NOW THEREFORE**, in consideration of the mutual covenants set out herein, the City and the Contractor (hereinafter sometimes jointly referred to as the "Parties") agree as follows:

**I. NON-EXCLUSIVE AGREEMENT**

Contractor acknowledges, accepts, and agrees that the City may enter into additional agreements

with other contractors for services which are either similar or the same as the Services that are the subject of this Agreement, including, but not limited to, Temporary Staffing Services. Contractor acknowledges, accepts, and agrees that City may, at its sole discretion, use its own employees to perform services similar to those services contemplated by this Agreement. Contractor further acknowledges, accepts, and agrees that Contractor is not the exclusive provider of Temporary Staffing Services to the City.

## **II. SCOPE OF WORK AND SERVICES**

- A. Contractor shall provide Temporary Staffing Services to City on an as needed basis as determined by City, at City's sole discretion, and as described in **RFP FY22-065 Exhibit A**. Contractor will provide City with temporary personnel (hereinafter referred to as "Temporary Personnel" and/or "Temporary Employee") on an as needed basis in accordance with the terms stated herein. All Temporary Personnel and/or Temporary Employees provided to City by Contractor, shall remain the employees of the Contractor at all times regardless of whether they are referred to as Temporary Personnel or Temporary Employees of the City in this Agreement or any other writing. Contractor remains responsible and liable for any and all Temporary Personnel and Temporary Employees provided to City. Temporary Personnel and/or Temporary Employees shall **not** be considered and are not employees of the City at any time and under any circumstances.
- B. Temporary Employees may not be assigned to the City by Contractor for more than nine (9) months or 1,460 hours (whichever comes first) for the duration of this Agreement. After completion of the nine (9) months or 1,460 hours, Temporary Employees may not be reassigned to the City for a period of one (1) year after the Temporary Employee reaches the nine (9) months or 1,460 hours. Temporary Employees are prohibited from driving city owned vehicles. Temporary Employees are also prohibited from driving any vehicles, including, but not limited to personal vehicles, in the course of conducting City business and/or within the scope of their temporary employment with the City. Temporary Employees are also prohibited from the use of any and all motorized equipment, including but not limited to forklifts, under

- any circumstances, during their assignment with City.
- C. The City may request that any Temporary Employee be removed from any City work and/or project, by the Temporary Staffing Agency, at any time and for any reason.
  - D. Temporary Employees are prohibited from performing any and all duties that involve the handling of cash.
  - E. Temporary Employees must be able to work flexible schedules and various shifts. Hours worked shall normally be eight (8) hours per day Monday through Friday with the workday beginning at 8 a.m. to 5 p.m. City requires minimum of four (4) hours per worker per day unless worker abandons job duties, notifies respective City supervisor, and/or has an emergency, or the City cancels two (20 hours in advance of the beginning of a particular temporary employee's shift. Other hours of work may be arranged if approved by the City's Department Director.
  - F. All services provided by Contractor pursuant to this Agreement shall be provided with the utmost standard of care, diligence and skill ordinarily exercised by contractors in similar fields and in accordance with sound professional practices. Contractor warrants that it is familiar with all laws that may affect its performance under this Agreement and shall advise City of any changes in any laws that may affect Contractor's performance of this Agreement.
  - G. Contractor warrants and represents to City that it possesses all necessary training, licenses, and permits necessary and/or required to enable and allow Contractor to provide the Service to City, which City bargained for in this Agreement.
  - H. Upon receiving notification from City of the need for Temporary Personnel, Contractor will provide City with a pool of potential Temporary Employees that have either met or exceeded the City's minimum qualifications for that position. City will then select the best suited individual for the open position from the pool of potential Temporary Employees (hereinafter "Selected Applicant").
  - I. Prior to placement with City, Contractor shall require that the Selected Applicant provide a current background check from both the Laredo Police Department and the Webb County Sheriff's Office. At the same time, Contractor shall also run a nationwide criminal background check for the Selected Applicant. The City shall determine whether the Selected Applicant should be disqualified based on the information City receives from

Contractor regarding the Selected Applicant's background on a case by case basis.

- J. Once Contractor receives all background checks and reports as required in Section "F" above, Contractor shall require that the Selected Applicant undergo a drug and alcohol test within twenty-four (24) hours in accordance with the same procedures set forth in the City of Laredo Drug & Alcohol Policy codified at Chapter 2, Article VII of the City of Laredo Code of Ordinances, which is attached hereto as **Exhibit B** and incorporated herein by reference as if set out in full herein. The results of this testing together with the date of referral together shall be delivered by Contractor in a sealed envelope to the City Employee Health and Wellness Manager or their designee at the City's Employee Health and Wellness Division located at 1102 Bob Bullock Loop, Laredo, Texas 78043.
- K. Contractor acknowledges, accepts, and agrees that a Selected Applicant shall be automatically ineligible for temporary placement, if pursuant to the requirements of Section G above, the Selected Applicant tests positive for a drug and alcohol test or fails to submit to a drug and alcohol test within twenty-four (24) hours of being referred by Contractor. Contractor further acknowledges, accepts, and agrees that City reserves the sole right and discretion to make a final determination as to the initial eligibility and/or continuing suitability of any Selected Applicant before placing the Selected Applicant in any vacant position at the City.
- L. Contractor acknowledges, accepts, and agrees to enforce the City of Laredo's Code of Ethics section 2.02 (b) as it pertains to the appointment and/or supervision of relatives in the City.
- M. Contractor understands that time is of the essence in the performance of this Agreement and agrees to complete the screening process of the Selected Applicant without delay.
- N. The Contractor will provide Temporary Employee with uniforms with the temporary staffing agency's logo (if applicable) and identification cards. The City may provide non-logo uniform shirts (if applicable and available).
- O. The Contractor will provide Temporary Employee with job related safety trainings and essential personal protective equipment deemed necessary by the City. The City may provide OSHA approved protective footwear and personal protective equipment (if applicable).

- P. The City will not be responsible for monitoring Temporary Employee's work hours. The Contractor must have a timekeeping system. All manual and/or digital timecards will be the responsibility of the Contractor.

### **III. PRECEDENCE OF DOCUMENTS**

This Agreement, together with all the Exhibits attached hereto and incorporated herein, constitute the entire Agreement between the Parties with respect to any matter and supersedes any and all other and/or prior writings and oral negotiations. In the event of any inconsistency or conflict, the provisions of this Agreement shall take precedence over the contents of the bid documents attached hereto as **Exhibit A** and by the Contractors response to said bid attached hereto as **Exhibit B**. Otherwise the content of the bid document is hereby incorporated and shall be considered as part of this Agreement.

### **IV. TERM**

The term of this Agreement shall be for a period of one (1) year beginning as of the effective date of this Agreement ("**Effective Date**"). The Agreement may be extended for two (2) additional one (1) year periods each upon mutual agreement of the City and the Contractor, subject to budget appropriations.

Should the Contractor desire to extend the Agreement for the additional one-year period, it must so notify the City in writing no later than sixty (60) days before the expiration of the prior term. Such notification shall be effective upon actual receipt by the City. It is expressly understood by the parties that any such extension of this Agreement is entirely revocable at the City's discretion and is contingent upon the agreement and acceptance by the City Council. All annual contracts shall be bound by the terms and conditions of the **RFP FY 22-065** bid document and this Agreement. In the event a new Agreement cannot be executed on the anniversary date of the original term or renewal term, the Agreement may be extended on a month to month basis until a new Agreement is awarded.

V. **COMPENSATION/PRICE**

A. **Fee Structure.** The services to be provided by Contractor shall be compensated at a fixed percentage markup of the set hourly wage to be paid for the selected temporary personnel. Contractor is entitled to receive this markup percentage amount as its exclusive fee under this Agreement. The Parties agree that this fixed fee amount is intended to include, and Contractor shall directly pay for, those costs associated with the performance of Contractor's obligations under this Agreement and RFP FY 22-065. **Exhibit A.**

The following fees are binding for the initial term and subsequent renewals of the Agreement:

32% markup rate on manual trade staff

30% markup rate on clerical staff

30% markup rate on administrative staff

B. **No Additional Compensation.** In consideration for good and valuable consideration, the receipt of which is hereby acknowledged, Contractor hereby expressly agrees to waive all provisions for additional compensation contained in the "Client Conversion" portion of Contractor's Bid Proposal. Contractor understands and agrees that should the City at any time hire the Temporary Employee on a permanent basis or the Temporary Employee ceases employment with Contractor, Contractor will not be entitled to any early conversion fee, finder's fee or other amount of compensation other than the fixed amount expressly provided for in "Section A" above.

a. **Invoicing.** Contractor shall invoice City on a weekly basis. All invoices shall be mailed to the following address:

**City of Laredo  
Accounts Payable Office  
Post Office Box 210  
Laredo, Texas 78042**

## **VI. COMPLIANCE**

Contractor shall procure all necessary licenses to conduct business to include acquiring and maintaining a City of Laredo Business Permit and State of Texas Certification of Authority. Contractor will further abide by all applicable local state and federal laws, regulations, and ordinances and Contractor will require the same compliance of all subcontractors. In particular, during the performance of this Agreement, Contractor agrees to comply with the applicable provisions of the **Occupational Safety and Health Code, Immigration and Naturalization Act, the American with Disabilities Act, the Texas Tax Code, the Internal Revenue Code, the Texas Insurance Code, the Affordable Care Act, and the Texas Labor Code.** Contractor further agrees to comply fully with the **Equal Employment Opportunity Act of 1972** and agrees not to discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, disability, genetic information or any other legally protected category. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, age, color, religion, sex, national origin, disability, or genetic information. Furthermore, Contractor will comply with all tax laws applicable to the Temporary Employees. Contractor will also be responsible for providing medical insurance for all eligible Temporary Employees (as required by the affordable care act) and Contractor agrees to indemnify City from any fines or penalties under this requirement.

## **VII. MODIFICATIONS TO AGREEMENT**

Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, City and Contractor may agree in writing to an equitable adjustment of the Fee stated in the Agreement, period of service, or both. Any claim by the Contractor for such adjustment must be asserted within thirty (30) days or such other period as may be agreed upon in writing by the Parties after the Contractor's receipt of notice of the modification. Nothing herein contained shall excuse the Contractor from proceeding with the Agreement as changed. All Modifications must be in writing and signed by both

Parties.

### **VIII. QUALITY OF WORK**

Contractor shall be solely responsible for the obligations, work, and results under this Agreement. Contractor, when requested, shall furnish clarification and or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. City reserves the right to immediately utilize the services of an alternative provider in the event of any error, omission, or delay by Contractor in the performance of services required by this Agreement.

### **IX. INDEMNIFICATION**

For good and valuable consideration, the receipt of which is hereby acknowledged, the Contractor covenants and agrees to and does hereby indemnify, hold harmless, and defend, at Contractor's expense, the City and its respective agents, officers, directors, employees, successors, and assigns, from and against all claims, demands, damages, losses, actions, judgments, liabilities and expenses (including, but not limited to, reasonable attorney's fees, costs and court costs), wherever brought and whether arising in tort, contract, law or equity, arising out of or resulting from this Agreement, directly or indirectly. Contractor's obligations shall include any and all claims, including, but not limited to, claims arising out of the civil rights and employment laws to the extent resulting from Contractor's acts or omissions, or from the acts or omissions of anyone directly or indirectly employed by or affiliated with Contractor, or anyone for whose acts Contractor may be liable in the performance of Contractor's duties as a temporary help services agency. The Contractor shall be responsible for the acts and/or omissions of its Temporary Employees and agents in performing this Agreement. The Contractors shall indemnify and hold the City and its officers and employees harmless against any and all claims arising from said acts or omissions of and/or by the Temporary Staffing Agency's Employees and agents. Nothing herein shall be construed as a waiver of the City's governmental immunity as further provided by the laws of the State of Texas or any other law. For purposes of this Agreement, the usual and



customary duties of a temporary help services agency shall be defined as the duty to make all reasonable efforts to provide a qualified individual to perform the duties and functions of the job as described by City. Notwithstanding anything to the contrary in this Agreement, Contractor will indemnify and forever release and discharge City and its customers to which Temporary Employees are assigned, and their respective officers, agents and employees and assigns and save them harmless from and against any and all workers' compensation claims of whatever kind or nature in connection with or respect to any injury to any Temporary Employee arising from, out of, directly or indirectly, and/or related to work performed by the Temporary Employee under this Agreement or the use by any Temporary Employee of any City asset or premises. In this regard, Contractor specifically represents and warrants that it maintains workers' compensation coverage for all of Temporary Employee, assigned to City, as required by law or as otherwise set forth in this Agreement. In addition, Contractor expressly agrees and acknowledges that the provisions contained in the "Disclaimer" portion of Contractor's Bid Proposal have not been agreed to and are not in any manner a part of this Agreement so that the City of Laredo shall not be required to: (1) insure any Temporary Employee or any motor vehicle owned by a Temporary Employee operated in the course of employment with the City; or (2) indemnify/hold harmless the Temporary Employee or Contractor for any liability in the use of a motor vehicle operated in the course of employment with the City. In fact, Temporary Employee's assigned to the City are not allowed the use of any motor vehicle while performing work or conducting any other activity within or without the scope of the work the Temporary Employee is performing for the City. In any case, if the Temporary Employee's assigned to the City defies the prohibition of the use of any vehicles, and makes use of a motor vehicle while performing work or while conducting any other activity within or without the scope of the work the Temporary Employee is performing for the City, then the Temporary Staffing Agency is indemnifying, defending and holding the City harmless from any damages and lawsuits as stated above, that are related to and/or arise out of such use.

## X. INSURANCE

With no intent to limit Contractor's liability under the indemnification provisions set forth in

Article IX. above, Contractor shall provide and maintain in full force and effect during the entire term of this Agreement, and any renewals or amendments thereto, the insurance and available limits of liability provided herein, if applicable. Contractor shall furnish the City with original copies of valid insurance policies that are required in this Agreement, and as more specifically set out in **RFP FY22-065 (RFP FY22-065)** is attached hereto as **Exhibit A** and incorporated herein by reference as if set forth in full herein) under the section titled “Insurance Terms and Conditions.” Each required policy must include an endorsement naming the City of Laredo as additional insured. Each policy must contain an endorsement to the effect that issuer waives any claim or right in nature of subrogation to recover against the City of Laredo. The insurer used by Contractor must be licensed for business in the State of Texas and be approved by the City. The Contractor's insurance shall be primary and any insurance or self-insurance maintained by the City shall not contribute with the coverage maintained by Contractor. It is understood by both parties that City is not required to obtain Workers' Compensation Insurance on behalf of the Contractor or the employees of the Contractor. In fact, it is the duty of the Contractor to comply with all laws whether local, state, and/or federal, including, but not limited to, providing all Temporary Employees with unemployment and/or workers' compensation coverage. Additionally, the City requires a minimum 60-day advance notice of any cancelation of any insurance policy initiated by Contractor and/or initiated by Contractor's insurer.

## **XI. TERMINATION**

City reserves the right to terminate the Agreement, by providing Contractor with thirty (30) day written notice (“Notice Period”), in the event the Contractor performs any of the terms in this agreement and/or engages in any of the following prohibited practices, and/or violates the following specific terms:

1. Any failure by Contractor to adhere to any of the requirements stated in **RFP FY22-065**.
2. If Contractor fails to pay insurance, liens, claims, or other charges;
3. If Contractor or any other person institutes any action or omission that initializes

or triggers bankruptcy proceedings against the Contractor or upon dissolution of the firm or business;

4. If Contractor violates any of the provisions of this Agreement;
5. By Contractor's repeated instances of failing to respond in a timely manner to any complaints, issues, or questions from the City, and
6. By the repeated occurrence of undesirable practices as such practices are determined by the City at City's sole discretion.

The reasons and process of termination stated above is in addition to, and not in lieu of, any other remedies that the City may have in law or equity.

Contractor agrees that City shall not be liable for damages for any reason including, but not limited to, damages caused as a result of City declaring Contractor in default.

In case of the termination of this Agreement by City, such termination of the Agreement shall be deemed effective thirty (30) days after the receipt of the City's notice of termination by the Contractor. In the event of termination of this Agreement by the City, Contractor shall immediately stop rendering services under this Agreement, unless directed otherwise by City or unless agreed otherwise by City and Contractor in a writing that is signed by Contractor and City.

Furthermore, any change in ownership or management of the Contractor automatically terminates this Agreement unless a mutual agreement is reached and drafted in a writing signed by Contractor and City that explicitly allows for any such ownership and/or management change and explicitly states that this agreement shall continue under despite the change in Contractor's change in ownership and/or management. This Agreement is non-transferable.

## **XII. SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this

Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void.

### **XIII. RIGHTS OF THIRD PARTIES**

The rights, duties, and obligations set forth in this Agreement for personnel services shall not be delegated or assigned to any person or entity without the prior written consent of City. City and Contractor each binds itself and its directors, officers, owners, stockholders, partners, successors, executors, administrators, and legal representatives to the other Party to this Agreement and to the directors, officers, partners, successors, executors, administrators, and legal representatives of such other Party in respect to all provisions of this Agreement. Nothing in this Agreement shall be construed to give any right or benefit to anyone other than City and Contractor. Contractor shall not assign any right or duty under this Agreement without the prior written consent of City.

### **XIV. INDEPENDENT CONTRACTORS**

Each Party shall perform its activities and duties hereunder only as an independent Contractor. The Parties and their personnel shall not be considered to be employees or agents of the other Party. Nothing in this Agreement shall be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

### **XV. AUDITS**

Records of Contractor's Services directly relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date. Any such inspection shall be conducted at the City's expense, during normal business hours and upon reasonable prior written notice to Contractor. Such audit

shall also be subject to the execution of a confidentiality Agreement regarding inadvertent access to confidential information not related to the City.

#### **XVI. GOVERNING LAW AND VENUE**

This Agreement shall be governed by and construed under the laws of the State of Texas. In the event of any legal action to enforce or interpret this Agreement, the Parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Webb County, Texas, and that the prevailing Party shall be entitled to recover from the opposing Party all costs and expenses including reasonable and necessary attorney's fees incurred. The costs, salary and expenses of the City Attorney and members of his /her office in enforcing this Agreement on behalf of the City shall be considered as "attorney's fee" for the purposes of this Agreement. Litigation is the sole remedy available to resolve any dispute related to this Agreement.

#### **XVII. NOTICE**

**Any and all notices or communications required herein shall be made in writing and mailed by registered mail with return receipt required to the following:**

##### **If to City:**

City of Laredo  
Attention: Linda C. Teniente, Human Resources Director  
Human Resources Department  
P.O. Box 579  
Laredo, Texas 78042  
lteniente@ci.laredo.tx.us

##### **If to Contractor:**

Elite Employment Services, LLC  
Attention: Luis Valdez  
6550 Springfield  
Laredo, Texas 78041

**XVIII. HEADINGS**

Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

**XIX. CORPORATE AUTHORITY**

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS THEREOF**, the Parties have duly approved this Agreement, which was executed and made effective on this the 31<sup>st</sup> day of **January** of **2023** (“Effective Date”).

“Provider”  
Elite Employment Services, LLC

\_\_\_\_\_  
Luis Valdez  
Owner/President



“City”  
City of Laredo, Texas

\_\_\_\_\_  
Dr. Victor D. Trevino, Mayor  
City of Laredo

\_\_\_\_\_  
Rosario Cabello, Interim City Manager  
City of Laredo

**ATTESTED:**

\_\_\_\_\_  
Doanh “Zone” Nguyen, City Attorney  
City of Laredo

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jose A. Valdez, City Secretary  
City of Laredo