

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

DARRIN WYNN,

CASE NO.:

Plaintiff,

v.

CITY OF ATLANTIS, FLORIDA, a
Florida municipal corporation, EAST
COAST PROTECTION, INC., a Florida
corporation,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, DARRIN WYNN ("Plaintiff") sues Defendants, CITY OF ATLANTIS,
FLORIDA ("City") and EAST COAST PROTECTION, INC. ("East Coast"), and alleges:

SECTION I – JURISDICTION AND VENUE

1. This is an action for damages in excess of \$50,000, exclusive of interest, costs, and attorney's fees.
2. This Court has jurisdiction pursuant to Article V, section 5 of the Florida Constitution.
3. This Court has concurrent jurisdiction over Plaintiff's federal claims under 42 U.S.C. § 1983.
4. ~~Venue~~ is proper in Palm Beach County, Florida because the acts and omissions giving rise to this action occurred in this County.

SECTION II – PARTIES

5. Plaintiff, Darrin Wynn is a Florida resident and homeowner residing within the City of Atlantis.
6. Defendant, City of Atlantis, Florida is a Florida municipal corporation responsible for municipal programs, service agreements and the adoption and enforcement of ordinances.

7. Defendant East Coast Protection, Inc. is a Florida corporation that contracted with the City to staff and operate guard gates controlling vehicular access to public roadways within the City.

SECTION III – CONDITIONS PRECEDENT (§ 768.28)

8. All conditions precedent to bringing state-law claims against the City under § 768.28, Florida Statutes, have been satisfied.
9. Written notice of claim was timely served upon the City of Atlantis and the Florida Department of Financial Services.
10. A true and correct copy of the § 768.28 notice is attached as Exhibit “A.”

SECTION IV – FACTUAL BACKGROUND

A. The City and the Gate System

11. The City of Atlantis is a small incorporated municipality in Palm Beach County with a population of approximately 2,000 residents.
12. The City is substantially enclosed by perimeter walls, fencing, or similar barriers such that vehicular ingress and egress occur almost exclusively through the three gated entrances.
13. Each entrance is controlled by a guard gate and mechanical gate arm operated as part of a City vehicle access-control program. (See Exhibit “B”)
14. Of the three guard gates, one is staffed 24 hours per day, and two are staffed only 18 hours per day.
15. During the hours in which the latter two gates are not staffed, the gate arms remain in the locked and down position, physically prohibiting vehicular ingress and egress through those entrances.
16. As a result, during unstaffed hours the City closes multiple public access points, leaving only a single entrance available for vehicular travel.

B. Public Roadway Status and Lack of Authority

17. The incident occurred at the Clubhouse Boulevard entrance.
18. Clubhouse Boulevard is a public right-of-way.
19. In the alternative, Clubhouse Boulevard is owned, maintained, or controlled by the City

of Atlantis, Palm Beach County, and or the State of Florida.

20. Under any scenario, Clubhouse Boulevard is subject to Florida traffic law and constitutional protections.
21. The City enacted no valid ordinance or lawful authorization permitting obstruction or selective restraint of motorists on Clubhouse Boulevard.
22. The City obtained no lawful permits or interlocal approvals authorizing such obstruction, or alternatively, any claimed authorization was not narrowly tailored or constitutionally permissible.

C. Signage, Decals, and Plaintiff's Status

23. The inbound entrance consists of two lanes marked by signage designating one lane for "residents with decals" and another lane for "Visitors Information and Assistance Keep Left" "Residents With Decals Keep Right".
24. The City does not issue decals to residents and did not issue a decal to Plaintiff.
25. Plaintiff regularly uses the gated entrances for ingress and egress.
26. On the date of the incident, Plaintiff was operating a rental vehicle.
27. Based on signage and the absence of a decal and a prior experience, Plaintiff reasonably believed it was prudent to use the left lane designated for vehicles without decals.

D. East Coast's Role

28. The City contracted with East Coast to staff and operate the guard gates. (See Exhibit "C")
29. East Coast supplied the gate attendants and exercised day-to-day operational control, subject to City-approved post orders and contractual requirements.
30. Gate attendants were authorized to control gate arms using their discretion and to determine whether to raise or lower the gates.

E. The Incident

31. As Plaintiff approached the gate on October 1, 2024, both gate arms were upright.
32. Another vehicle approached simultaneously in the adjacent right lane.
33. The gate attendant affirmatively permitted the adjacent vehicle to proceed.
34. While Plaintiff's vehicle occupied the left lane, the gate attendant intentionally and

- manually lowered the left gate arm controlling Plaintiff's lane to stop Plaintiff's vehicle.
35. The gate arm was not lowered automatically.
 36. Plaintiff reflexively swerved to avoid the descending gate arm.
 37. The gate arm struck Plaintiff's vehicle, shattering the driver-side window and damaged the hood.
 38. Plaintiff sustained a shoulder injury as a direct result of the evasive maneuver.

CAUSES OF ACTION

COUNT I – NEGLIGENCE PER SE **(Against CITY OF ATLANTIS)**

39. Plaintiff realleges Sections I–IV.
40. Florida law prohibits obstruction of public roadways absent lawful authority, including §§ 316.2045 and 861.01, Florida Statutes.
41. Regulation of public rights-of-way is a non-delegable governmental duty.
42. The City violated these statutes by operating an unauthorized gate system that obstructed a public roadway.
43. The violations were the foreseeable and proximate cause of Plaintiff's injuries.
44. As a direct and proximate result, Plaintiff suffered bodily injury, property damage, past and future medical expenses, past and future pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, incidental and consequential economic losses, and costs, subject to § 768.28.

COUNT II – NEGLIGENCE **(Non-Delegable Duty / Direct Liability – Against CITY OF ATLANTIS)**

45. Plaintiff realleges Sections I–IV.
46. The City owed a non-delegable duty to maintain public roadways and the guard gates used as traffic control devices in a reasonably safe and lawful condition.
47. The City breached that duty by implementing, operating and maintaining an unsafe and unauthorized gate system.
48. The breach caused Plaintiff's injuries.
49. As a direct and proximate result, Plaintiff suffered bodily injury, impairment, past and

future medical expenses, past and future pain and suffering, emotional distress, mental anguish, loss of normal life activities, property damage, economic losses, and costs.

COUNT III – NEGLIGENCE

(Direct / Corporate Negligence – Against EAST COAST PROTECTION, INC.)

50. Plaintiff realleges Sections I–IV.
51. East Coast owed a duty to operate the gate system with reasonable care.
52. East Coast breached that duty by failing to properly train and supervise gate attendants, failing to prohibit manual deployment into occupied lanes, and failing to implement adequate safety procedures.
53. The breach caused Plaintiff's injuries.
54. As a direct and proximate result of East Coast's independent negligence, Plaintiff suffered physical bodily injury, past and future medical expenses, past and future pain and suffering, emotional distress and mental anguish, property damage, economic losses including repair costs and incidental expenses, consequential damages, and costs.

COUNT IV – NEGLIGENCE

(Vicarious Liability – Against EAST COAST PROTECTION, INC.)

55. Plaintiff realleges Sections I–IV.
56. The gate attendant was East Coast's employee acting within the course and scope of employment.
57. The attendant negligently lowered the gate arm into Plaintiff's lane.
58. East Coast is vicariously liable for that negligence.
59. As a direct and proximate result, Plaintiff suffered bodily injury, past and future medical expenses, pain and suffering, emotional distress, property damage, economic losses, and costs.

COUNT V – 42 U.S.C. § 1983 SUBSTANTIVE DUE PROCESS

(Monell – Final Policymaker: City Council – Against CITY OF ATLANTIS)

60. Plaintiff realleges Sections I–IV.
61. Plaintiff had a liberty interest in unobstructed travel on public roadways.
62. The City deprived Plaintiff of that liberty through an arbitrary and unauthorized gate

system.

63. Final policymaking authority resided with the City Council.
64. The Council knowingly permitted the system to operate without lawful standards or safeguards.
65. The policy was not narrowly tailored to any legitimate governmental interest.
66. As a direct result of the City's arbitrary deprivation of Plaintiff's liberty interests, Plaintiff suffered compensatory damages for constitutional injury, emotional distress and mental anguish, loss of liberty and personal security, physical injury caused by unconstitutional conduct, and nominal damages in the alternative, together with reasonable attorney's fees and taxable costs pursuant to 42 U.S.C. § 1988.

COUNT VI – 42 U.S.C. § 1983

FOURTH AMENDMENT – UNREASONABLE SEIZURE

(Monell – Policy, Custom, or Practice – Against CITY OF ATLANTIS)

67. Plaintiff realleges Sections I–IV.
68. The City maintained a municipal gate program designed to physically stop vehicles.
69. The program included arbitrary and discretionary manual deployment of gate arms.
70. The practices were widespread and persistent.
71. The absence of safeguards and/or the ultra vires nature of the gates operations reflected deliberate indifference.
72. The intentional lowering of the gate arm constituted an unreasonable seizure.
73. As a direct result of the seizure, Plaintiff suffered compensatory damages for the seizure itself, bodily injury, emotional distress, loss of liberty, property damage, and nominal damages where appropriate, together with reasonable attorney's fees and taxable costs pursuant to 42 U.S.C. § 1988.

COUNT VII – 42 U.S.C. § 1983

(Monell – Ratification by City Manager)

(Against CITY OF ATLANTIS)

74. Plaintiff realleges Sections I–IV.
75. The City Manager exercised final administrative authority over the gate contract and its operation.
76. The incident, injuries, and dangerous gate operation were documented through City

channels, placing the City Manager on actual or constructive notice.

77. The City Manager possessed authority to suspend or correct unconstitutional gate practices.
78. Despite such knowledge and authority, the City Manager affirmatively approved continued operation without corrective measures.
79. The City Manager thereby ratified the underlying policy and practice of discretionary physical gate restraint.
80. As a direct result of the City's ratification of unconstitutional gate practices, Plaintiff suffered compensatory damages for constitutional injury, ongoing deprivation of liberty interests, emotional distress, physical injury, and nominal damages where appropriate, together with reasonable attorney's fees and taxable costs pursuant to 42 U.S.C. § 1988.

COUNT VIII-DECLARATORY JUDGMENT
(Against CITY OF ATLANTIS)

81. Plaintiff realleges Sections I–IV.
82. Plaintiff regularly uses the City's gated public roadways.
83. The City continues to operate the gate system under circumstances alleged to be unlawful and unconstitutional.
84. An actual, present controversy exists regarding the parties' rights and obligations.
85. Plaintiff seeks a judicial declaration determining the rights and obligations of the parties concerning the gate system, including a declaration that the challenged operation is unlawful and unconstitutional, together with taxable costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988.

COUNT IX – INJUNCTIVE RELIEF
(Against CITY OF ATLANTIS)

86. Plaintiff realleges Sections I–IV.
87. Plaintiff faces inevitable future exposure to the challenged conduct.
88. The continued operation of the gate system presents a real and immediate risk of future harm.
89. Plaintiff lacks an adequate remedy at law for the future conduct.
90. Plaintiff seeks permanent injunctive relief prohibiting continued unlawful operation of

the gate system, ancillary equitable relief necessary to ensure compliance, enforcement-related costs, and reasonable attorney's fees pursuant to 42 U.S.C. § 1988.

COUNT X – 42 U.S.C. § 1983
FOURTH AMENDMENT – UNREASONABLE SEIZURE
(State Actor – Against EAST COAST PROTECTION, INC.)

91. Plaintiff realleges Sections I–IV.
92. East Coast acted under color of state law by operating a traffic-control gate on a public roadway pursuant to delegated authority.
93. The intentional deployment of the gate arm constituted an unreasonable seizure.
94. The seizure resulted from East Coast's own policies, training failures, and deliberate indifference.
95. As a direct result of East Coast's unconstitutional conduct, Plaintiff suffered compensatory damages for unreasonable seizure, physical injury, emotional distress, property damage, loss of liberty, and nominal damages where appropriate, together with reasonable attorney's fees and taxable costs pursuant to 42 U.S.C. § 1988.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,

BY: 

2/17/26

Bryan K. Boysaw, Esquire
Boysaw Law
501 North Rosemary Avenue
West Palm Beach, FL 33401
Florida Bar Number: 0910279
Phone: (561) 650-1481
Fax: (561) 650-1485
Primary E-mail: Bryan@boysawlaw.com
Secondary E-mail: Deloris@boysawlaw.com
Attorney for Plaintiff(s)

NOT A CERTIFIED COPY



BOYSAW LAW
ACCIDENT INJURY & NEGLIGENT SECURITY

501 N. Rosemary Ave.
West Palm Beach, FL 33401

☎ 561-650-1481
● 561-650-1485

April 3, 2025

Certified Mail #7021 2720 0000 4552 7725
Return Receipt Requested

Allan Kaulbach
City of Atlantis
260 Orange Tree Drive
Atlantis, FL 33462

Claimant 1: Darrin Wynn
Date of Loss: October 10, 2024
Date of Birth: February 2, 1968
Place of Birth: North Jersey, NJ
SS or ID#: [REDACTED]
Unpaid Claims: Claimant unaware of adjudicated unpaid claims exceeding \$200
Process: To be served upon Head of Agency & Dept. of Financial Services
Case Jurisdiction: Palm Beach County

Dear Head of Agency and Dept. of Financial Services:

Our law firm has been retained to investigate and determine the legal cause of the above referenced incident. In accordance with F.S. §768.28, the claimant seek monetary damages from a state entity, agency or subdivision ("agency") that you head. The damages arise from bodily injury and/or property damages that were caused by and/or attributed to the actions or inactions of employees or agents of the aforementioned agency.

Summary of Facts:

The following information will assist you with your investigation and evaluation of this incident:

Person involved: Darrin Wynn
Date of loss: October 10, 2024
Time of Loss: 5:30 PM
Locations of loss: Gate 375, 103 North Country Club Boulevard
Type of loss: Car Accident

As a direct result, the claimant incurred medical expenses. The claimant's medical expenses were reasonable and they were necessarily caused and incurred as a direct result of the agency that you head. The claimant's injuries included physical, emotional and fiscal damages.

Exhibit "A"

768.28 Notice Letter Re: Darrin Wynn
City of Atlantis
April 3, 2025
Page Two

The claimant also incurred or is obligated to reimburse third parties for property damages. All of these damages are owed to the claimant by the Agency that you head.

REQUESTED ACTION:

Please contact me as soon as you have reviewed this notice of intent to sue letter so that we can discuss whether it is your intent to settle this claim or whether you are denying this claim.

PUBLIC RECORDS REQUEST:

In addition, this is a public record's request pursuant to Chapter 119 of the Florida Statutes. Our law firm request immediate access or production of the Public Records requested below.

We agree to pay the reasonable copying charges associated with this Public Records Request. If you anticipate that the total amount of this request will exceed \$100, then please provide my law firm with a written estimate or a telephone call to discuss the total actual charges of providing copies related to this Public Records Request.

RECORDS REQUESTED:

1. Any report related to the above-referenced incident and all supplements.
2. Surveillance footage of the relevant gate, starting 15 minutes before the accident through 15 minutes after.
3. All photos and videos of the damages to the vehicle involved in this accident.
4. All photos and videos of the damages to the gate arm involved in this accident.
5. All statements obtained from witnesses related to this incident.
6. All statements obtained from the claimant related to this incident.
7. All maintenance reports or logs of the gate arm involved in this incident.
8. All documents, photos, and videos related to prior incidents at the relevant gate.

768.28 Notice Letter Re: Darrin Wynn

City of Atlantis

April 3, 2025

Page Three

9. Any agreement between the City of Atlantis, East Coast Protection, Inc., and all other service providers responsible for the operation and maintenance of the gate at the time of the accident.
10. All statements obtained from the East Coast Protection security officer working at the time of the incident.
11. Any document establishing the City of Atlantis' ownership of the area shown in the attached photo.
12. Any document establishing the City of Atlantis' duty to maintain the area shown in the attached photo.

Should you have questions or comments, please do not hesitate to contact me.

Very truly yours,



Bryan K. Boysaw
BKB:js

cc: **Certified Mail #7021 2720 0000 4552 6155**
Florida Department of Financial Services, Division of Risk Management
200 #. Gaines Street, Tallahassee, FL 32399-0338 (850) 413-3122

Wynn Aerials

Write a description for your map.

Legend

📍 103 N Country Club Blvd

103 N Country Club Blvd

N Country Club Blvd

Sunset Park Mr. Tennis

101

Google Earth

data SIO, NOAA, U.S. Navy, NGA, GEBCO
Imagery Landsat / Copernicus

70 ft

Exhibit "B"

CITY OF ATLANTIS GATE ATTENDANT SERVICE AGREEMENT

THIS GATE ATTENDANT SERVICE AGREEMENT is entered into this 15th day of April, 2022, effective June 1, 2022, by and between the CITY OF ATLANTIS, FLORIDA, a municipal corporation with offices located at 260 Orange Tree Drive, Atlantis, FL 33462, organized and existing in accordance with the laws of the State of Florida, hereinafter "ATLANTIS," and EAST COAST PROTECTION, INC., a Florida corporation whose principal address is 614 N. Dixie Highway, Lantana, FL 33462, hereinafter the "CONTRACTOR," and collectively with ATLANTIS, the "PARTIES"

WHEREAS, the City Council of the City of ATLANTIS, Florida, has determined it to be in the best interests of the citizens of ATLANTIS to enter into a contract for gate attendant services at the three (3) gatehouses at the three (3) entrances of ATLANTIS; and

WHEREAS, the City Council of the City of ATLANTIS, Florida, believes it to be in the best interests of the citizens of ATLANTIS to enter into an Agreement with the CONTRACTOR for the provision of said gate attendant services.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter contained, to be kept and performed by the parties hereto, and for the welfare of the citizens of ATLANTIS, it is hereby agreed as follows:

1. **RECITALS:**

The above recitals are true and correct.

2. **CONTRACT DOCUMENTS:**

The following documents ("Contract Documents") have been reviewed by the CONTRACTOR prior to the execution of this Agreement and are hereby made a part of this Agreement and are incorporated herein by reference:

- a. Bid Notice
- b. Instructions to Bidders
- c. Bid Form
- d. Sworn Statement
- e. Non-collusion Statement
- f. Request for Sealed Bids for Gate Attendant Services

In the event of a conflict between the Contract Documents and any term or condition contained in this Agreement, then and in that case the Contract Document provision(s) shall prevail.

3. **SCOPE OF SERVICES:**

The following services will be provided by the CONTRACTOR:

- a. Clubhouse Boulevard gatehouse - gatehouse attendant provided twenty-four (24) hours per day, three hundred sixty-five (365) days per year, for a total of eight thousand, seven hundred sixty (8,760) hours per year.
- b. JFK Circle gatehouse - gatehouse attendant provided eighteen (18) hours per day, three hundred sixty-five (365) days per year, for a total of six thousand, five hundred seventy (6,570) hours per year.
- c. West gatehouse - gatehouse attendant provided eighteen (18) hours per day, three hundred sixty-five (365) days per year, for a total of six thousand, five hundred seventy (6,570) hours per year.
- d. The duties and responsibilities of all gatehouse attendants shall be delineated in the post orders which will be formulated with input from the ATLANTIS City Manager and/or his designee.
- e. The CONTRACTOR will be responsible for providing its Gate Attendants and Supervisors with the following training deliverables:
 - i. Training of Gate Attendants and Supervisors: The CONTRACTOR shall provide all Gate Attendants and Supervisors with training courses required by this Agreement, and shall require all Gate Attendants and Supervisors to successfully complete said training. In addition, the CONTRACTOR shall provide all Gate Attendants and

Supervisors with training on the ATLANTIS Post Orders, and shall require all Gate Attendants and Supervisors to successfully complete said training. The CONTRACTOR shall require all Gate Attendants and Supervisors to demonstrate familiarity with all contractually required training courses, and with the ATLANTIS Post Orders prior to being assigned to a gate facility or a supervisory role.

- ii. Reporting to ATLANTIS: The CONTRACTOR shall submit all training lesson plans for the aforesaid training, as well as the training records for all Gate Attendants and Supervisors demonstrating successful completion of all training, to ATLANTIS prior to assigning the Gate Attendant to a gate facility, or the Supervisor to a supervisory position.
- iii. Cost of Training and Reporting: All training, and full compliance with the reporting requirements of this section, is at the sole cost and expense of the CONTRACTOR.

4. **PERFORMANCE STANDARDS:**

The CONTRACTOR will be responsible for its Gate Attendants and Supervisors adherence to the following performance standards:

- a. Gate Attendants and Supervisors shall possess basic writing skills and computer skills so that proper notes can be taken, forms can be filled out, and other required documentation can be completed.
- b. Gate Attendants and Supervisors shall be capable of communicating with the general public and with ATLANTIS employees.
- c. Gate Attendants and Supervisors shall demonstrate the ability to work independently, engage in decision-making that furthers the requirements of this Agreement, and accept responsibility for such decision-making and behavior in general.
- d. Gate Attendants and Supervisors shall demonstrate and maintain a working knowledge of the applicable procedures and other requirements for each gate facility location and shall follow applicable procedures for each gate

facility location as specified in the ATLANTIS Post Orders. This may include such procedures and requirements as completing daily activity reports, monitoring camera systems, providing information to the general public, and reporting hazardous and/or other safety conditions.

- e. Gate Attendants and Supervisors shall be in uniform while on duty, and shall at all times remain alert, engaged, observant, and responsive.
- f. Gate Attendants shall not leave their assigned gate facility Post until properly relieved by a Relief Gate Attendant. The CONTRACTOR shall ensure that a Gate Attendant is on duty at each gate facility at all times required by this Agreement.
- g. Gate Attendants and Supervisors shall be punctual in reporting for duty. The CONTRACTOR shall assure timely reporting by all Gate Attendants, Relief Gate Attendants, and Supervisors.

5. **COMPENSATION:**

For the contract year June 1, 2022 through September 30, 2023, the CONTRACTOR'S Attendants assigned to ATLANTIS will be billed as follows:

- a. Twenty Dollars and Ninety-Three Cents (\$20.93) per hour for the hours stated in Paragraph 3a, b, and c above, for a total of 420 hours per week, plus Thirty-One Dollars and Forty Cents (\$31.40) per hour for holidays as stated in Paragraph 5b below, for an annual total of Four Hundred Sixty-Two Thousand, One Hundred Thirty-Six Dollars and Twenty Cents (\$462,136.20).
- b. Attendants assigned to ATLANTIS will be paid a minimum of Fifteen Dollars (\$15.00) per hour. In addition, attendants assigned to ATLANTIS will be paid a rate of 1.5 times the regular rate for the following holidays:
 - i. New Year's Day
 - ii. Memorial Day
 - iii. Independence Day
 - iv. Labor Day
 - v. Thanksgiving Day

- vi. Christmas Day
- c. CONTRACTOR shall, upon request of ATLANTIS, provide documentation evidencing CONTRACTOR'S compliance with wage and payment requirements (e.g. age, minimum wage, overtime, etc.) of state and federal law.

6. TERM OF AGREEMENT:

The initial term of this Agreement shall be for sixteen (16) months from the effective date of June 1, 2022 (concluding on September 30, 2023), and may be renewed thereafter for subsequent terms of twelve (12) months upon mutual consent of the PARTIES.

7. REPRESENTATION: The CONTRACTOR shall assign a Contract Administrator/Project Representative as a single point of contact for all inquiries and contract issues. The Contract Administrator/Project Representative's name, email, phone and fax contact information will be provided to ATLANTIS. Any changes to the CONTRACTOR'S Contract Administrator must be reported to ATLANTIS within 24 hours of the change. The Contract Administrator/Project Representative must be available to meet with the ATLANTIS designee upon 24 hours' notice. The CONTRACTOR shall adequately supervise all gate attendants assigned under the provisions of this Agreement during each attendant's entire shift. "Adequately supervise" includes, but is not limited to: ensuring staffing levels are met, ensuring Gate Attendants arrive on time and are prepared to begin work, observing the Gate Attendants work habits, appearance, overall performance, and ensuring that Gate Attendants are in compliance with all Agreement requirements.

8. POST ORDERS CHANGES AND/OR ADDITIONS:

ATLANTIS shall provide any changes and/or additions to the ATLANTIS post orders in writing. All changes or additions to the ATLANTIS post orders will originate with ATLANTIS.

9. **LIQUIDATED DAMAGES:**

The CONTRACTOR acknowledges that delayed, incomplete, or substandard performance under this Agreement will damage ATLANTIS but that by their nature, such damages are not possible to accurately quantify. Accordingly, the liquidated damages provisions provided for in this Agreement will apply. Liquidated damages are not intended to be a penalty; they are solely intended to compensate ATLANTIS for damages caused by the CONTRACTOR'S delayed, incomplete, or substandard performance under this Agreement.

- a. Failure to provide coverage for any gate facility for an entire shift: The CONTRACTOR will be assessed liquidated damages in the amount of \$200.00 per incident. Each gate facility and each shift shall be considered a separate incident. In addition to the imposition of liquidated damages, compensation to the CONTRACTOR under the Agreement will be reduced in an amount equal to the gross compensation that would have been paid to the Gate Attendant had the incident not occurred. No warning will be issued.
- b. Failure to provide coverage for any gate facility for a portion of a shift: The CONTRACTOR will be assessed liquidated damages in the amount of \$100.00 per incident. Each gate facility and any absence of a Gate Attendant at the assigned gate facility for any duration of time shall be considered a separate incident. In addition to the imposition of liquidated damages, compensation to the CONTRACTOR under the Agreement will be reduced in an amount equal to the gross compensation that would have been paid to the Gate Attendant had the incident not occurred. No warning will be issued.
- c. Failure of a Gate Attendant, or a Supervisor on duty within ATLANTIS, to be in uniform and alert, engaged, observant, and responsive at all times, and to otherwise be in compliance with ATLANTIS Post Orders: The CONTRACTOR may be assessed liquidated damages in the amount of \$50 for a second incident, and \$100 for each subsequent incident. Assessment of liquidated damages under this part is at the sole discretion of the

ATLANTIS Chief of Police. In addition to the imposition of liquidated damages, the ATLANTIS Chief of Police may order removal of the Gate Attendant from providing services to ATLANTIS under this Agreement for three (3) or more repeated incidents during any six (6) month rolling period. A warning will be issued for the first incident. However, if the incident is severe enough, in the sole discretion of the ATLANTIS Chief of Police, the Gate Attendant may be removed after the first incident.

d.

10. **TERMINATION OF AGREEMENT:**

This Agreement may be terminated at any time by either PARTY upon ninety (90) days written notice to the other PARTY via hand delivery or certified mail delivered to the following addresses or at such other address as may be provided:

CONTRACTOR:

East Coast Protection, Inc.
106 Glenbrook Court
Atlantis, FL 33462
Attention: Timothy Higgins, President

ATLANTIS:

City of Atlantis
260 Orange Tree Drive
Atlantis, FL 33462
Attention: Brian Moree, Manager

11. **GOVERNING LAW, VENUE:** This Agreement shall be construed in accordance with the laws of the State of Florida, and venue for the resolution of any dispute shall be in Palm Beach County.

12. **ATTORNEY'S FEES:** Should a dispute arise regarding interpretation or performance of this Agreement, the prevailing PARTY, both at the trial and appellate levels, shall be entitled to all costs and reasonable attorney's fees.

13. **INSURANCE:** The CONTRACTOR agrees to maintain for the duration of this Agreement commercial general liability insurance that provides for combined single limit not less than five million dollars (\$5,000,000.00) for death, bodily injury, property damage, and personal injury. Such insurance shall provide an aggregate (maximum) policy limit pay out of Five Million dollars (\$5,000,000.00).

Coverage shall insure for the liability of all employees of the CONTRACTOR and all persons that the CONTRACTOR places as gate attendants at any ATLANTIS. Further, the policy of insurance shall name ATLANTIS as an additional insured and certificate holder of the insurance policy. CONTRACTOR shall provide ATLANTIS with a copy of the insurance certificate naming ATLANTIS as an additional insured at the request of ATLANTIS. The CONTRACTOR shall notify ATLANTIS of any claim against such insurance. The CONTRACTOR shall notify ATLANTIS immediately upon cancellation of the insurance policy, whether such cancellation was initiated by the insurance company or the CONTRACTOR. The failure of the CONTRACTOR to maintain continuously the insurance required by this section shall be deemed a material breach by the CONTRACTOR of this Agreement.

14. NO TRANSFER OF POWERS; NO WAIVER OF SOVEREIGN IMMUNITY:
Nothing contained in this Agreement shall be construed to constitute a transfer of powers or waiver of sovereign immunity in any way, whatsoever. This Agreement is solely an agreement for the provision of services on a contract basis.
15. NON-ASSIGNMENT: This Agreement may not be assigned without prior mutual written consent of the PARTIES.
16. HEADINGS; DRAFTING: The headings contained in this Agreement are provided for convenience only and shall not be considered in construing, interpreting, or enforcing this Agreement. The PARTIES to this Agreement participated equally in the drafting of this Agreement and acknowledge that it was negotiated at arm's length. Accordingly, this Agreement shall not be construed more favorably toward one PARTY over another.
17. PUBLIC RECORDS: In accordance with Sec. 119.0701, *Florida Statutes*, the CONTRACTOR must keep and maintain this Agreement and any other records associated therewith and that are associated with the performance of the work contemplated thereby. Upon request, the CONTRACTOR must provide the public

with access to such records in accordance with access and cost requirements of Chapter 119, *Florida Statutes*. Further, the CONTRACTOR shall ensure that any exempt or confidential records associated with this Agreement or associated with the performance of the work described therein are not disclosed except as authorized by law. Finally, the CONTRACTOR shall retain the records described in this paragraph throughout the performance of the work contemplated by the Agreement, and at the conclusion of said work, shall transfer to ATLANTIS, at no cost to ATLANTIS, all such records in the possession of the CONTRACTOR and destroy any duplicates thereof. Records that are stored electronically must be transferred to ATLANTIS in a format that is compatible with ATLANTIS' information technology systems.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CITY CLERK, RECORDS CUSTODIAN FOR ATLANTIS, AT (561) 965-1744, OR AT kpuhalainen@atlantisfl.gov, OR AT 260 ORANGE TREE DRIVE, ATLANTIS, FL 33462.

18. SCRUTINIZED COMPANIES: For Contracts under \$1M, the CONTRACTOR certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, *Florida Statutes*, and that it is not engaged in a boycott of Israel. ATLANTIS may terminate this Agreement at its sole option if the CONTRACTOR is found to have submitted a false certification as provided under Section 287.135(5), *Florida Statutes*, if the CONTRACTOR has been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, *Florida Statutes*, or if CONTRACTOR is engaged in a boycott of Israel. For Contracts over \$1M, the CONTRACTOR certifies that it is not on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies

with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, *Florida Statutes*. The CONTRACTOR further certifies that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as similarly provided in Section 287.135, *Florida Statutes*. ATLANTIS may terminate this Agreement at its sole option if the CONTRACTOR is found to have submitted a false certification as provided under Section 287.135(5), *Florida Statutes* or if the CONTRACTOR has been placed on one of the aforementioned lists created pursuant to Section 215.4725, *Florida Statutes*. Additionally, ATLANTIS may terminate this Agreement at its sole option if the CONTRACTOR is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, *Florida Statutes*.

19. **E-VERIFY ELIGIBILITY:** The CONTRACTOR warrants and represents that it is in compliance with Section 448.095, *Florida Statutes*, as may be amended. The CONTRACTOR shall: (1) register with and use the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of all newly hired workers; and (2) verify that all of the CONTRACTOR'S subconsultants performing the duties and obligations of this Agreement are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers. The CONTRACTOR shall obtain from each of its subconsultants an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in Section 448.095(1)(k), *Florida Statutes*, as may be amended. The CONTRACTOR shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement which requires a longer retention period. ATLANTIS shall terminate this Agreement if it has a good faith belief that the CONTRACTOR has knowingly violated Section 448.09(1), *Florida Statutes*, as may be amended. If the CONTRACTOR has a good faith belief that the CONTRACTOR'S subconsultant has knowingly violated Section 448.09(1),

Florida Statutes, as may be amended, ATLANTIS shall notify the CONTRACTOR to terminate its contract with the subconsultant and the CONTRACTOR shall immediately terminate its contract with the subconsultant. In the event of such contract termination, the CONTRACTOR shall be liable for any additional costs incurred by ATLANTIS as a result of the termination.

20. **OFFICE OF THE INSPECTOR GENERAL:** Pursuant to Sections 2-421—2-432 of the Palm Beach County Code of Ordinances, the Office of the Inspector General has jurisdiction to investigate municipal matters, review and audit municipal contracts and other transactions, and make reports and recommendations to municipal governing bodies based on such audits, reviews, or investigations. All parties doing business with ATLANTIS shall fully cooperate with the Inspector General in the exercise of the Inspector General's functions, authority and power. The Inspector General has the power to take sworn statements, require the production of records and to audit, monitor, investigate and inspect the activities of ATLANTIS, as well as contractors and lobbyists of ATLANTIS in order to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct and abuses.
21. **ENTIRE AGREEMENT:** This Agreement constitutes the entire understanding of the PARTIES with respect to the provision of protective services for three (3) gatehouses located within ATLANTIS. It may not be modified, or any of its provisions waived, unless such modification and/or waiver is in writing and is agreed to and signed by both PARTIES.

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IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the date and year first above written.

WITNESSES:

B. D. M.

(Corporate Seal)

CONTRACTOR:

EAST COAST PROTECTION, INC.

By: Z. D. Higgins
Timothy D. Higgins, President

ATTEST:

ATLANTIS

CITY OF ATLANTIS, FLORIDA

Kristen Puhalaenen

Kristen Puhalaenen, City Clerk

By: Michael LaCoursiere

Michael LaCoursiere, Mayor



**SECOND AMENDMENT TO THE CITY OF ATLANTIS
GATE ATTENDANT SERVICE AGREEMENT**

THIS SECOND AMENDMENT to the City of Atlantis Gate Attendant Service Agreement is hereby entered into on the 18th day of September, 2024 and is effective as more particularly set forth herein, by and between the City of Atlantis, Florida, a municipal corporation, with offices located at 260 Orange Tree Drive, Atlantis, Florida 33462, hereinafter referred to as the "City", and East Coast Protection, Inc., a Florida corporation whose principal address is 614 N. Dixie Highway, Lantana, FL 33462 hereinafter referred to as the "Contractor", both of whom understand as follows:

WITNESSETH:

WHEREAS, the City and the Contractor previously entered into a Gate Attendant Service Agreement (the "Agreement") in April 2022, effective on June 1, 2022, and First Amendment to the City of Atlantis Gate Attendant Service Agreement, dated November 27, 2023, to provide gatehouse attendant services for the City at each of its three (3) entry gatehouses; and

WHEREAS, the Agreement provided for hourly rates to be paid to the Contractor based on the manhours the Contractor's staff provided to the City at each gatehouse, as well as minimum hourly wages to be paid to the Contractor's personnel in exchange for providing the gatehouse attendant services; and

WHEREAS, contrary to the City's experience in years past with other vendors who have been contracted to provide gatehouse attendant services for the City, the gatehouse attendants provided by the Contractor have consistently met or surpassed the City's expectations for the provision of these services; and

WHEREAS, the Agreement did not contemplate automatic renewals, but does allow the parties to mutually agree to renewal terms, which the parties desire to do at this time; and

WHEREAS, the City Council of the City of Atlantis, on the recommendation of the City Manager and the City Attorney, have determined that entering into this Second Amendment to the City of Atlantis Gate Attendant Service Agreement will be in the best interest of the City.

NOW, THEREFORE, and in consideration of the mutual terms, conditions, promises, and covenants hereinafter set forth, the City and the Contractor agree as follows:

**SECTION 1. AMENDMENTS TO GATE ATTENDANT SERVICE AGREEMENT
COMPENSATION**

A. Paragraph 5. Compensation is amended to replace the contract hourly rate, total annual contract rate, minimum staff hourly rate, and night shift differential applicable to the 11PM to 7AM shift for the Clubhouse Entrance, as follows:

Effective date	Hourly rate	Total Annual Contract Rate	Min. Staff Hourly Rate	Night Shift Differential
10/01/2024	\$23.02	\$511,291.84	\$16.90	\$17.90
10/01/2025	\$23.71	\$526,542.28	\$17.50	\$18.50
10/01/2026	\$24.43	\$542,250.22	\$18.10	\$19.10
10/01/2027	\$25.16	\$558,429.41	\$18.70	\$19.70
10/01/2028	\$25.91	\$575,093.97	\$19.30	\$20.30
10/01/2029	\$26.69	\$592,258.47	\$19.90	\$20.90

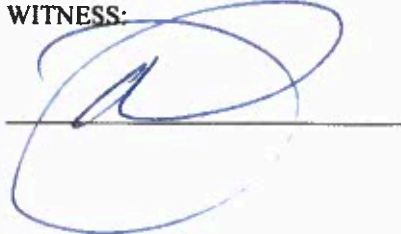
- B. The hourly rates above shall be adjusted as necessary due to state or federal wage mandates if mutually agreed upon by the parties.
- C. This amendment shall be effective on October 1, 2024.

SECTION 2. AMENDMENTS TO GATE ATTENDANT SERVICE AGREEMENT TERM

- A. Paragraph 6. Term of Agreement is amended by adding a Second Renewal Term which shall be effective October 1, 2024 and shall expire September 30, 2030
- B. This amendment shall be effective on October 1, 2024.

IN WITNESS WHEREOF, the City of Atlantis has caused this Second Amendment to the City of Atlantis Gate Attendant Service Agreement to be executed on its behalf by the Mayor of Atlantis and duly attested by its City Clerk; and East Coast Protection, Inc. has caused this Second Amendment to the City of Atlantis Gate Attendant Service Agreement to be signed on its behalf by its President, Timothy D. Higgins and duly witnessed, the day and year first above written.

WITNESS:



EAST COAST PROTECTION, INC.


Timothy D. Higgins, President

ATTEST:


Kristen Puhalainen, City Clerk

CITY OF ATLANTIS


Allan Kaulbach, Mayor