

**AGREEMENT FOR WIRELESS DATA COMMUNICATION SERVICES**  
**(Utilizing the Palm Beach County Contract No. 23-039/MD)**

THIS AGREEMENT FOR WIRELESS DATA COMMUNICATION SERVICES (“Agreement”) is made as of the \_\_\_\_\_, by and between the CITY OF LAKE WORTH BEACH, 7 N. Dixie Highway, Lake Worth Beach, FL 33460, a municipal corporation organized and existing under the laws of the State of Florida, (“CITY”), and Kirms Communication, LLC, a Florida Limited Liability Company, located at 814 14<sup>th</sup> Street, Lake Park, FL 33403 (“CONTRACTOR”).

**RECITALS**

**WHEREAS**, the CITY’s Electric Utility Department is in need of a company to provide Wireless Data Communication Services; and,

**WHEREAS**, the CITY’s Procurement Policy and Code authorizes the purchases of goods and services through “piggybacking” other governmental competitively procured Agreements; and

**WHEREAS**, on May 23, 2023, Palm Beach County competitively awarded the Agreement for Wireless Data Communication Services, Contract # 23-039/MD based on Palm Beach County’s Request for Proposal (RFP NO. 23-039/MD) to the CONTRACTOR (“Palm Beach County Contract”) valid until May 22, 2024 with four (4) one (1) year options for renewal; and

**WHEREAS**, Palm Beach County agreed to extend the terms and conditions of the Palm Beach County Contract to the CITY; and

**WHEREAS**, the CONTRACTOR has agreed to extend the terms and conditions of the Palm Beach County Contract to the CITY; and

**WHEREAS**, the CITY has reviewed the unit prices from the Palm Beach County Contract, which unit prices are set forth as Exhibit “A” attached hereto, and determined that the unit prices are competitive and will result in the best value to the CITY; and

**WHEREAS**, the CITY finds entering this Agreement with the CONTRACTOR serves a valid public purpose.

**NOW THEREFORE**, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.
2. **Contract.** The Palm Beach County Contract is hereby incorporated by reference into and expressly made a part of this Agreement as is set forth at length herein. The CITY shall have all rights and obligations of Palm Beach County under the Palm Beach County Contract except as specifically modified herein. The term of this Agreement shall be consistent with the term of the Palm Beach County Contract and valid until May 22, 2024 with four (4) one (1) year options for renewal, unless earlier terminated in accordance with the Agreement terms.
3. **Not to Exceed Amount.** While the CONTRACTOR is not guaranteed that the CITY will utilize this Agreement for any services, if the CITY utilizes this Agreement for services, the not to exceed amount for this Agreement shall be \$400,000 for each fiscal year.

4. Work Orders. When the CITY identifies a need for the CONTRACTOR's services, the CITY will request a proposal from the CONTRACTOR to provide the services requested at the unit prices set forth in Exhibit "A". The CITY will provide the CONTRACTOR with plans and/or specifications in order for the CONTRACTOR to develop its proposal. The CONTRACTOR's proposal shall be submitted in the format of the sample work order, attached hereto and incorporated herein as Exhibit "B" along with a copy of the CONTRACTOR's proposal. Upon receipt of the CONTRACTOR's proposed work order and proposal, the CITY shall decide in its sole discretion whether to award the work order to the CONTRACTOR. Depending on the lump sum amount of each work order, the work order may be awarded by the City Manager, if within their purchasing authority (currently not to exceed \$50,000), or the City Commission. If the work order is approved by the CITY, the CONTRACTOR shall commence the identified services upon the CITY's approval of the work order for the services and issuance of a notice to proceed. The CITY reserves the right to reject any and all proposals submitted by the CONTRACTOR. A CITY-approved work order shall include (by reference) the plans and/or specifications provided by the CITY to the CONTRACTOR.

5. Conflict of Terms and Conditions. Conflicts between documents that make up this Agreement shall be resolved in the following order of precedence:

- a. This Agreement (including its exhibits);
- b. The Palm Beach County Contract; and,
- c. The CITY issued Work Order.

6. Compensation to CONTRACTOR. CONTRACTOR shall submit invoices to the CITY for review and approval by the CITY's representative, indicating that all goods and services have been provided and rendered in conformity with this Agreement and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on the CONTRACTOR's final/last billing to the CITY. This certifies that all services have been properly performed and all charges have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the CONTRACTOR. The CITY will not be liable for any invoice from the CONTRACTOR submitted thirty (30) days after the provision of all services.

7. Miscellaneous Provisions.

- A. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held exclusively in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- B. Except for any obligation of the CONTRACTOR to indemnify the CITY, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, each party shall be liable and responsible for their own attorney's fees incurred in that enforcement action, dispute, breach, default or misrepresentation. FURTHER, TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.
- C. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or

unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

- D. All notices required in this Agreement shall be sent by certified mail, return receipt requested or by nationally recognized overnight courier, and sent to the addresses appearing on the first page of this Agreement.
- E. The CITY and the CONTRACTOR agree that this Agreement (and the other documents described herein) sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.
- F. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement. This Agreement may be executed electronically.
- G. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- H. In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
- I. PUBLIC RECORDS. The CONTRACTOR shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the CITY as provided under section 119.011(2), Florida Statutes, specifically agrees to:
  - 1. Keep and maintain public records required by the CITY to perform the service.
  - 2. Upon request from the CITY's custodian of public records or designee, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
  - 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONTRACTOR does not transfer the records to the CITY.
  - 4. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided

to the CITY, upon request from the CITY's custodian of public records or designee, in a format that is compatible with the information technology systems of the CITY.

**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 CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITY CLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.**

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the CITY and CONTRACTOR hereto have made and executed this Agreement for Wireless Data Communication Services as of the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONTRACTOR: KIRMS COMMUNICATIONS, LLC.

[Corporate Seal]

By: \_\_\_\_\_

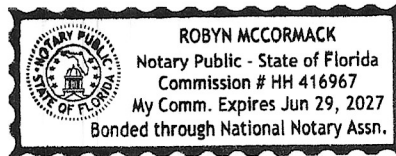
Print Name: Harry Kirms

Title: Owner

STATE OF Florida  
CITY OF Lake Park

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 17th day of October, 2023, by Harry Kirms, as the Owner [title] of Kirms Communication, LLC., a Florida Limited Liability Company, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

\_\_\_\_\_  
Notary Public Signature  
Notary Seal:



**EXHIBIT "A"**  
**Price Schedule from Palm Beach County Contract**

ITEM NO.	DESCRIPTION	ESTIMATED ANNUAL QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
1.	Standard Rate, as specified herein	11980	Hour	\$150.00	\$1,797,000.00
2.	Emergency Rate, as specified herein	1040	Hour	\$200.00	\$208,000.00
3.	Overtime Rate, as specified herein	80	Hour	\$200.00	\$16,000.00
4.	Holiday Rate, as specified herein	16	Hour	\$300.00	\$4,800.00
5.	Project Planning and Development	200	Hour	\$400.00	\$80,000.00
6.	Bucket Truck w/Lift up to 50' Mobilization per day	208	Day	\$3000.00	\$624,000.00
7.	Crane, Lifts above 50' Mobilization per day	10	Day	\$5000.00	\$50,000.00
8.	Digger Truck Mobilization Truck & Trailer per day	156	Day	\$3500.00	\$546,000.00
9.	MOT Crew Sign/Box Truck Mobilization per day	156	Day	\$2000.00	\$312,000.00
10.	Maintain / replace one hundred (100) solar batteries	4	Quarter	\$37,500.00	\$150,000.00
<b>TOTAL PROPOSED PRICE:</b>					<b>\$3,787,800.00</b>

The Estimated Quantities are estimates only and are given for the information of proposers and are for the purpose of proposal evaluation. They do not indicate nor are they a commitment for the actual quantity of purchase/services that will be ordered or that may be required to meet the specifications in the Scope of Work/Services.

The price to be paid for parts/items/materials sold to COUNTY shall be based on the CONTRACTOR's cost of the actual items plus shipping cost.



NAME (PRINT): Harry Kirms

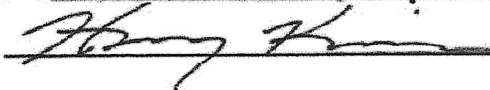
TITLE: Owner

COMPANY: Kirms Communications, LLC

ADDRESS: 814 14th Street

CITY/STATE/ZIP: LAKE PARK, FL 33403

TELEPHONE NO. 561-577-8827

SIGNATURE: 

**EXHIBIT "B"**

**SAMPLE WORK ORDER**  
**AGREEMENT FOR WIRELESS AND COMMUNICATION SERVICES**

THIS WORK ORDER for Wireless and Communications Contractor Services ("Work Order" hereafter) is made on the \_\_\_\_\_, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 ("City" hereafter) and **Kirms Communications, LLC.**, a Florida Limited Liability company ("Contractor" hereafter).

**1.0 Project Description:**

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the Wireless and Communications Services project generally described as: \_\_\_\_\_ (the "Project"). The Project is more specifically described in the plans prepared by \_\_\_\_\_, dated \_\_\_\_\_, and which are incorporated herein by reference.

**2.0 Scope**

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with construction services for the Project as specified in the **Contractor's proposal attached hereto and incorporated herein as Exhibit "1"**.

**3.0 Schedule and Liquidated Damages**

Substantial completion of all services and work under this Work Order shall be within \_\_\_\_\_ **calendar days** from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within \_\_\_\_\_ **calendar days** from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties' execution of this Work Order and the City's delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

**Liquidated Damages.** The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City \_\_\_\_\_ hundred dollars (\$ \_\_\_\_\_ .00) for each day that expires after the time specified in this Work Order.

**4.0 Compensation and Direct Purchases**

This Work Order is issued for a lump sum, not to exceed amount of \$ \_\_\_\_\_ (\_\_\_\_\_). The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

The following Direct Purchases are to be made under this Work Order by the City:

\_\_\_\_\_  
\_\_\_\_\_.

**5.0 Project Manager**

The Project Manager for the Contractor is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_; and, the Project Manager for the City is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

**7.0 Contractor's Representations**

In order to induce the City to enter into this Work Order, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Work Order, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated work order price within the Work Order stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the RFP; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work under this Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.



7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

**8.0 Warranty.** The Contractor warrants and guarantees to the City that all services and work provided under this Work Order will be in accordance with this Work Order and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Work Order shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Work Order will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

**9.0 Authorization**

This Work Order is issued pursuant to the Wireless and Communications Contractor Services Contract for between the City of Lake Worth Beach and the Contractor, dated \_\_\_\_\_, ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

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Signature Page Follows

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order No. XXX as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**Contractor: KIRMS COMMUNICATIONS, LLC**

By: \_\_\_\_\_ [Do Not Sign – Sample] \_\_\_\_\_

Name:

Title:

[Corporate Seal]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_, as \_\_\_\_\_ of **Kirms Communications, LLC.**, a Florida  
Limited Liability company, and who is personally known to me or who has produced the following  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public Signature  
Notary Seal