

**CONTRACTOR AGREEMENT**  
**For Board and Secure Services**  
**(Utilizing the City of West Palm Beach CONTRACT NO. ITB 18-19-136)**

THIS CONTRACTOR AGREEMENT ("Agreement") is made as of \_\_\_\_\_, 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 **L.M.C.C. Specialty Contractors, Inc. d/b/a Mims Construction Company**, a Florida Corporation, whose business address is 119 South Pinehills Road, Orlando, FL 32811 ("CONTRACTOR").

**RECITALS**

WHEREAS, the CITY's Community Sustainability Department is in need of Board & Secure Services;

WHEREAS, on October 24, 2019, the City of West Palm Beach awarded a term contract for Board and Secure Services under Invitation to Bid #18-19-136 to the CONTRACTOR (the "City of West Palm Beach Contract"); and,

WHEREAS, the CITY has requested and the CONTRACTOR along with the City of West Palm Beach has agreed to extend the terms and conditions of the City of West Palm Beach Contract to the CITY for Board and Secure Services; and

WHEREAS, the CITY has reviewed the unit prices from the City of West Palm Beach Contract and determined that the City of West Palm Beach Contract's unit prices are competitive and will result in the best value to the CITY.

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. City of west Palm Beach Contract. The term of this Agreement shall be consistent with the term of the City of West Palm Beach Contract, which is valid until October 23, 2024 unless extended.
3. Fee and Ordering Mechanism.
  - A. For services to be rendered under this Agreement, the CONTRACTOR shall be entitled to be paid the unit prices set forth in the City of West Palm Beach Contract; provided that, the maximum amount to be paid by the CITY to the CONTRACTOR under this Agreement for services rendered during any fiscal year shall **not exceed \$75,000.00** (Seventy-Five Thousand Dollars). Subject to an approved annual appropriation by the CITY's City Commission, at the beginning of each fiscal year during the term of this Agreement (commencing October 1), the City will issue an annual Purchase Order under this Agreement for the stated maximum not to exceed amount (or such lesser amount appropriated); however, except for the maximum not to exceed amount, the terms and conditions stated in a City Purchase Order shall not apply to this Agreement. CONTRACTOR shall not exceed amounts expressed on any Purchase Order unless approved in writing by an amendment to this Agreement executed by the CONTRACTOR and the CITY.

- B. This Agreement does not guarantee that the CITY will utilize the CONTRACTOR in any capacity or for any services hereunder. 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. The CONTRACTOR's proposal shall be submitted to the CITY in the format of the sample work order, attached hereto and incorporated herein as **Exhibit "A"** and shall be based on the unit pricing specified in the City of West Palm Beach Contract. Upon receipt of the CONTRACTOR's proposed work order, 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 Department of Community Sustainability Director (or Assistant Department Director) in an amount not to exceed \$10,000. If a proposed work order is for more than \$10,000, the work order will require the CITY's City Manager's approval (or the CITY's City Commission approval if above \$50,000). 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. 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 (if any).
- C. In the event of a conflict, all contractual terms and conditions stated herein and as stated in the City of West Palm Beach Contract shall take precedence over the terms and conditions stated in the CITY issued Work Order. The CONTRACTOR shall not provide any services under this Agreement without a CITY issued Work Order specifically for this purpose, which shall include the applicable services to be provided and the amount the CITY will pay to the CONTRACTOR. The CONTRACTOR shall not perform services which are outside the scope of an issued Work Order and the CONTRACTOR shall not exceed the expressed amounts stated in the Work Order to be paid to the CONTRACTOR. The pricing in each Work Order shall be consistent with the unit pricing set forth in the City of west Palm Beach Contract. Each issued Work Order shall be incorporated into this Agreement and made a part hereof.
4. 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;
  - b. The City of West Palm Beach Contract; and,
  - c. The City issued Work Order.
5. 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.

6. 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 in Palm Beach County. 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 or electronically, 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. Either party may digitally sign this Agreement.
- G. 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.
- H. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- I. 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.

J. 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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, [CITYCLERK@LAKEWORTHBEACHFL.GOV](mailto:CITYCLERK@LAKEWORTHBEACHFL.GOV), OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

K. SCRUTINIZED COMPANIES.

1. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.
2. If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized

Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

3. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

4. The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

5. The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Contractor shall immediately notify the CITY of the same.

6. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

L. E-VERIFY.

Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

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

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement for Board and Secure 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:

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

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Bruce T. Miller, Financial Services Director

CONTRACTOR:

**L.M.C.C. SPECIALTY CONTRACTORS,  
INC. D/B/A MIMS CONSTRUCTION  
COMPANY**

[Corporate Seal]

By: \_\_\_\_\_  
Print Name: Lyndee Mims  
Title: President

STATE OF Florida  
COUNTY OF Orange

THE FOREGOING instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization on this 24<sup>th</sup> day of October, 2021, by Lyndee Mims, as the President [title] of L.M.C.C. Specialty Contractors, Inc. d/b/a Mims Construction Company, a corporation authorized to do business in the State of Florida, 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.

N. Kelly

