

**CONTRACT**

**THIS CONTRACT** ("Contract"), effective as of the \_\_\_\_ day of \_\_\_\_\_, 2018 ("Effective Date"), is made by and between and the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO** ("CRA"), an entity created pursuant to Part III of Chapter 163, Florida Statutes and **MYDATT SERVICES, INC., d/b/a Block by Block**, an Ohio corporation, hereinafter referred to as the "Contractor". For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**W I T N E S S E T H:**

**WHEREAS**, the CRA was created as a public body corporate and agency of the City of Orlando ("City") for the purpose of, among others, carrying out the community redevelopment purposes of Ch. 163, Part III, Florida Statutes; and

**WHEREAS**, the CRA and Contractor desire to enter into this Contract for the Contractor to perform certain ambassador program services for the CRA related to the Downtown Orlando Community Redevelopment Area; and

**WHEREAS**, under the CRA's policy and procedure, codified as section 1240.1 of the City's policies and procedures manual, the Chief Procurement Officer has been authorized by the CRA to serve as the CRA's principal procurement agent; and

**WHEREAS**, the services to be provided under this Agreement have been procured by the City's Chief Procurement Officer on the CRA's behalf

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and given one to the other, the sufficiency of which is hereby acknowledged, the parties agree as follows

**I. SCOPE**

The Contractor is to perform the work providing downtown ambassador services ("Work") as defined in the Contractor's proposal to the CRA ("Proposal"), which Proposal is attached hereto as Exhibit "A" and incorporated by reference herein and made a part hereof as fully as if herein set forth. Unless otherwise specified herein or in the Proposal, the Contractor is to furnish all materials, tools, equipment, manpower, and consumables to complete the Work.

**II. TERM OF CONTRACT**

The period of this Contract shall commence as of the Effective Date and be for an initial term of two (2) years. This Contract may, by mutual written assent of the parties, be extended for subsequent periods.

### **III. COMPENSATION**

The Contractor agrees to perform the Work and provide the services and materials as specified in its proposal to the CRA at the cost specified in said proposal. Notwithstanding the preceding, upon the written request of Contractor, the parties agree to discuss in good faith and may mutually agree upon a modification to any pricing, costs or fees charged in the event of any material change in Federal, State, or local law, regulation, administrative ruling affecting any change in work hours, pay rates, working conditions, taxes, health insurance, benefits, or other matter impacting Contractor's labor costs. In such case, Contractor shall notify CRA in writing of the event causing the change and the proposed impact on the pricing, costs or fees being charged by Contractor to CRA under this Agreement. Any proposed change shall be limited to the direct impact caused by the event. Such notice shall include a detailed explanation of the impact to each cost or fee affected and an explanation as to how any revised price, fee or cost was calculated. In such case if the parties are unable to mutually agree upon revisions to the compensation to be paid to Contractor within thirty (30) days of Contractor's notice, either party may terminate this Agreement upon ninety (90) days written notice to the other party.

### **IV. PAYMENT**

All invoices received by the CRA are payable within thirty (30) days from receipt, provided they have first been approved by the using department, and such department has accepted the Work. The CRA reserves the right, with justification, to partially pay any invoice submitted by the Contractor when requested to do so by the using department. All invoices shall be directed to the Accounts Payable Section, City of Orlando, 400 South Orange Avenue, Orlando, Florida, 32801-3302.

**NOTE: ALL INVOICES MUST CLEARLY INDICATE THE CONTRACT NUMBER AS STATED HEREIN.**

### **V. FISCAL YEAR FUNDING APPROPRIATION**

#### **A. Specified Period**

Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the CRA. Payment and performance obligations for succeeding fiscal periods shall be subject to appropriation by CRA of funds therefor.

**B. Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods**

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Contract shall be canceled and the contractor shall be entitled to reimbursement for the reasonable value of any nonrecurring cost incurred but not amortized in the price of the supplies or services delivered under the Contract or otherwise recoverable.

**VI. GENERAL CONDITIONS**

**A. Patents and Copyrights**

1. The Contractor shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product or device in performance of the Work, which is the subject of patent rights or copyrights. Contractor shall, at its own expense, hold harmless and defend the CRA and/or the City against any claim, suit or proceeding brought against the CRA and/or the City which is based upon a claim, whether rightful or otherwise, that the Work, or any part thereof, furnished under this Agreement, constitutes an infringement of any patent or copyright of the United States. The Contractor shall pay all damages and costs awarded against the CRA and/or the City.

2. Any and all material created or produced by Contractor or a sub-contractor of Contractor which are subject to trademark under applicable law or to copyright under the United States Copyright Act, including but not limited to all advertising slogans, materials, artwork, pictures, narratives and music pursuant to this Agreement shall become the sole and exclusive property of the CRA upon acceptance of such work by the CRA. CRA shall own such materials and all trademarks and copyrights related thereto, including all renewals and extensions. CRA shall have the right to obtain trademark and copyright registrations for such materials in its own name or in any name chosen by CRA, and CRA shall own all rights of copyright in the materials, as well as in any derivative works and reproductions made there from. Contractor shall execute such documentation that

the CRA may reasonably request to cause or evidence any such transfer of ownership of the materials. In addition, Contractor shall include in any contract with a sub-contractor for materials subject to trademark under applicable law or to copyright under the United States Copyright Act a provision that such materials shall become the property of the CRA upon acceptance of the work by the CRA and CRA shall own such materials and all copyrights related thereto, including all renewals and extensions. Contractor's sub-contractor agreements shall also contain requirement that the sub-contractor shall execute such documentation as the CRA may reasonably request to cause or evidence such transfer of ownership of the materials to the CRA. Contractor may utilize completed work done under this Contract in portfolio samples and may, upon prior written approval from the CRA's Executive Director or designee, post work completed under this Contract on Contractor's social media accounts or for other specifically requested purposes.

3. For any work that is created or developed under this Contract that may be considered a "work of visual art" under the Visual Artists Rights Act of 1990 (17U.S.Code §106A), Contractor hereby voluntarily, expressly, permanently, and irrevocably waives, or agrees to obtain a waiver from the author of the work of, any and all rights of attribution and integrity conferred by 17 U.S. Code § 106A(a) and all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This section shall survive termination of the Contract.

4. Any websites, domain names, social media accounts, phone numbers, or other social and marketing media and materials, including but not limited to logos and slogans, set up, created, or established by Contractor related exclusively to this Contract or the Work performed hereunder shall become the sole property of the CRA. Upon termination of this Contract for any reason, or earlier upon the written request of the CRA, such websites, domain names, social media accounts, phone numbers, and any information necessary to operate or access the same shall be turned over to the CRA and shall become the sole and exclusive property of the CRA.

**B. Termination for Default**

Either party may terminate this Agreement if the other commits a material breach of their respective obligations under this Contract and fails to correct such breach within thirty (30) days after delivery of written notice of such breach.

**C. Termination for Convenience**

The City's Chief Procurement Officer may terminate the Contract for convenience upon thirty (30) days advance written notice to the Contractor. In the event of such a termination by the CRA, the CRA shall be liable for the payment of all Work properly performed prior to the effective date of termination.

**D. Warranty**

The Contractor warrants that the Work including all services provided shall conform to professional standards of care and practice in effect at the time the Work is performed.

**E. Time of Completion**

The parties understand and agree that time is of the essence in the performance of this Contract. The Contractor or CRA, respectively, shall not be liable for any loss or damage, resulting from any delay or failure to perform its contractual obligations within the time specified, due to acts of God, actions or regulations by any governmental entity or representative, strikes or other labor trouble, fire, or any other causes, contingencies or circumstances not subject to the Contractor's or CRA's control, respectively, whether of a similar or dissimilar nature, which prevent or hinder the performance of the Contractor's or CRA's contractual obligations, respectively. Any such causes of delay, even though existing on the date of the Contract or on the date of the start of Work, shall extend the time of the Contractor's or CRA's performance respectively, by the length of the delays occasioned thereby, including delays reasonably incident to the resumption of normal Work schedules. However, under such circumstances as described herein, the City's Chief Procurement Officer may at his discretion, cancel this Contract for the convenience of the CRA.

**F. Indemnification and Insurance**

**1. Indemnity**

The Contractor hereby agrees to indemnify and hold harmless the CRA and the City, and their officers, agents, and employees, from and against any and

all liability, claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and costs of actions, including attorneys' fees for trial and on appeal, and for the preparation of same arising out of the Contractor's, its officers', agents', and employees' negligent acts or willful misconduct except to the extent any such claim arises from or is the result of the CRA or the City's own negligence or will misconduct.

**1. Insurance.**

- a. General Insurance Requirements. Upon execution of this Contract, Contractor shall provide the CRA with the required Certificate(s) of Insurance in a form(s) acceptable to the CRA. The Certificate(s) of Insurance shall demonstrate that the Contractor has coverage in accordance with the requirements set forth herein. Insurance coverage must be in force throughout the Contract term. Should Contractor fail to maintain insurance as required or to provide acceptable evidence of insurance within seven (7) days prior to the expiration date of an insurance policy, the CRA shall have the absolute right to terminate this Contract without any further obligation to the Contractor. In such event the Contractor shall be liable for the entire additional cost of procuring performance plus the cost of performing the incomplete portion of the contract at the time of termination.
- b. Subcontractors. Unless expressly specified otherwise herein, Contractor and its subcontractors of all tiers will be required at their own expense to maintain in effect at all times during the performance of the Work insurance coverages with limits not less than those set forth below with insurers and under forms of policies satisfactory to the CRA. It shall be the responsibility of the Contractor to maintain the required insurance coverages and to assure that subcontractors maintain required insurance coverages at all times. Failure of Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation. The requirements specified herein as to types, limits, and CRA's approval of insurance coverage to be maintained by a Contractor and its subcontractors are not intended to and shall not in any manner

limit or qualify the liabilities and obligations assumed by the Contractor and its subcontractors under a contract. Any insurance carried by the CRA or City that may be applicable shall be deemed to be excess insurance and the Contractor's insurance primary for all purposes despite any conflicting provision in the Contractor's policies to the contrary.

- c. Certificates of Insurance. Prior to commencing work at the jobsite, and as a condition precedent to the Contractor's and his subcontractors' initiation of performance, the Contractor and its subcontractors shall furnish the CRA with certificates of insurance as evidence that policies providing the required coverage and limits of insurance are in full force and effect. The certificates shall provide that any company issuing an insurance policy for the work under a contract shall provide not less than thirty (30) days advance notice in writing to the CRA prior to cancellation, termination, or material change of any policy of insurance (except for notice of non-payment of premium for which not less than ten (10) days advance notice in writing shall be required). In addition, the Contractor shall immediately provide written notice to the CRA upon receipt of notice of cancellation of an insurance policy or a decision to terminate an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the "occurrence" type. Certificates of insurance for a Contractor and subcontractor-furnished insurance and notices of any cancellations, terminations, or alterations of such policies shall be mailed to the attention of the Procurement and Contracts Division at the street address set forth for above for the submission of invoices.
- d. Additional Insureds. All insurance coverages furnished under a contract except Workers' Compensation and Employers' Liability shall include the CRA and its officers, elected officials, and employees as additional insureds with respect to the activities of the Contractor and its subcontractors. The CRA shall not by reason of their inclusion under

these policies incur liability to the insurance carrier for payment of premium for these policies.

- e. Waiver of Subrogation. The Contractor and its subcontractors shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the CRA, its officers, elected officials, agents and employees and against other Contractors and subcontractors.
- f. Types of Coverage to be Provided. The Contractor (and its subcontractors to the same extent and on the same terms as set forth below for Contractor) shall maintain the following coverages and furnish the certificate(s) of insurance on the policies and renewals thereof which indicate that insurance coverage has been obtained meeting the requirements of the contract.
  - (i) Workers' Compensation and Employer's Liability. This insurance shall protect the Contractor against all claims under applicable state workmen's compensation laws. The Contractor shall also be protected against claims for injury, disease, or death of employees that, for any reason, may not fall within the provisions of a workmen's compensation law. This policy shall include an "all states" or "other states" endorsement. Exemption certificates shall be accepted if valid during the term of the contract, but only for those eligible corporate officers pursuant to Chapter 440 of the Florida Statutes. Proof of workers' compensation coverage must still be provided for all employees, sub-contractors not eligible for exemption. The liability limits shall not be less than:

Workers' compensation:	Statutory
Employer's Liability:	\$100,000 each occurrence
  - (ii) Comprehensive Automobile Liability. This insurance shall be written in comprehensive form and shall protect the Contractor and the additional insureds against all claims for injuries to members of the public and damage to property of others arising

from the use of motor vehicle, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The liability limits shall not be less than:

Bodily injury and	\$1,000,000 combined single
Property damage:	limit each occurrence

- (iii) Commercial General Liability. This insurance shall be an “occurrence” type policy (excluding automobile liability) written in comprehensive form and shall protect the Contractor and the additional insureds against all claims arising from bodily injury, sickness, disease, or death of any person or damage to property of the CRA, the City, or others arising out of any act or omission of the Contractor or its agents, employees, or subcontractors. This policy shall also include protection against claims insured by usual bodily injury liability coverage, a “contractual liability” endorsement to insure the contractual liability assumed by the Contractor under this Contract with the CRA, and “completed Operations and Products Liability” coverage (to remain in force for 2 years after final payment and subsequent to project completion). If the Contractor’s work, or work under its direction, requires blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of structures, or damage to underground property. The liability limits shall not be less than:

Bodily injury and	\$1,000,000 combined single
Property damage:	limit each occurrence

**H. Acceptance**

The CRA will be deemed to have accepted the Work after the City’s Chief Procurement Officer is notified by the CRA’s Executive Director or his designee of his satisfaction that the work for their respective department is completed.

**I. Correction of Work**

The Contractor shall promptly correct all Work rejected by the CRA as failing to conform to this Contract. The Contractor shall bear all costs of correcting such rejected Work.

**J. Right to Audit Records**

The City and CRA shall be entitled to audit the books and records of Contractor or any subcontractor to the extent that such books and records relate to the performance of the contract or any subcontract. The Contractor and its subcontractors shall retain and maintain financial records and other records relating to the contract for a period of five (5) years from the date of final payment under the Contract and by the subcontractor for a period of five (5) years from the date of final payment under the subcontract unless a shorter period is otherwise authorized in writing by the CRA. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 5-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 5-year period, whichever is later.

**K. Time is of the Essence**

The parties agree that time is of the essence in the completion of the Work called for under this Contract. The Contractor agrees that all Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

**L. Information**

All information and data furnished to or developed for the CRA by the Contractor or its employees, pursuant to this Contract, excluding previously copywritten materials, shall be the sole property of the CRA and all rights therein are reserved by the CRA, except that the Contractor may disclose any such information to its corporate affiliates and their agents.

**M. Extra Work**

**1. Requested by CRA**

The CRA, without invalidating this Contract, may order changes in the Work within the general scope of this Contract consisting of additions, deletions, or other revisions, the Contract price and time being adjusted accordingly. All

such changes in the Work ordered by the CRA shall be authorized by written Addendum to this Contract, and shall be executed under the applicable conditions of the Contract.

**2. Additional Work Discovered by Contractor**

If the Contractor plans to make a claim for an increase in the Contract price based upon new or unforeseen circumstances which result in the need for additional work outside the scope of the original Work, Contractor shall first before providing any additional goods or services related to such additional work give the CRA written notice thereof and secure the prior written approval of the City's Chief Procurement Officer. No claim for extra work will be considered valid by the CRA unless first submitted in writing and approved in writing by the City's Chief Procurement Officer.

**N. Familiarity With The Work**

The Contractor by executing this Contract, acknowledges full understanding of the extent and character of the Work required and the conditions surrounding the performance thereof. The CRA will not be responsible for any alleged misunderstanding of the Work to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Contract by the Contractor serves as its stated commitment to fulfill all the conditions referred to in this Contract.

**O. Title and Risk of Loss**

The title and risk of loss to the Work shall pass from the Contractor to the CRA upon the CRA's final acceptance of the Work.

**P. Notices.**

All notices required or permitted to be given under this Agreement must be in writing and must be delivered to a party at the addresses set forth below (or such other address as may hereafter be designated by such party in writing). The parties' addresses for the delivery of all such notices are as follows:

CRA:

Thomas C. Chatmon, Jr.

Executive Director

Community Redevelopment Agency

400 South Orange Avenue, 6th Floor  
Orlando, Florida 32801  
Fax: (407) 246-3359  
Phone: (407) 246-3361

With a Copy to: Karen Elzy  
Senior Purchasing Agent  
City of Orlando  
400 South Orange Avenue, 4th floor  
Orlando, Florida 32891  
Fax: (407) 246-2869  
Phone: (407) 246-2368

Contractor: Blair McBride  
President  
Mydatt Services, Inc., d/b/a Block by Block  
640 South Fourth Street, Suite 110  
Louisville, Kentucky 40202  
Fax: (502) 749-0522  
Phone: (502) 749-1551

Notices shall be either: (1) personally delivered (including delivery by Federal Express or other courier service) to the addresses set forth above, in which case they shall be deemed delivered on the date of delivery; (2) sent by certified mail, return receipt requested, in which case they shall be deemed delivered on the date shown on the receipt unless delivery is refused or intentionally delayed by the addressee, in which event they shall be deemed delivered on the date of deposit in the U.S. Mail; or (3) transmitted via telecopier using a telecopier number provided above, if any (or such other number as receiving party may have designated in writing), in which case the delivery shall be deemed to have occurred on the day of the transmission, provided that the day of transmission is a business day in the City of Orlando, Florida, and the time of transmission is prior to 5:00 p.m. EST, or, if not, the first City business day after the transmission.

**VII. MISCELLANEOUS PROVISIONS**

- A. The Contractor shall not employ subcontractors without the advance written permission of the City's Chief Procurement Officer.
- B. Assignment of this Contract shall not be made without the advance written consent of the City's Chief Procurement Officer.
- C. No waiver, alterations, consent or modification of any of the provisions of this Contract shall be binding unless in writing and signed by the City's Chief Procurement Officer or designee.
- D. The Contractor is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state and local laws, ordinances, rules, and regulations, for the proper execution and completion of the Work under this Contract.
- E. All disputes between the parties shall be resolved in accordance with the City's Procurement Code, (Chapter 7 of the City Code).
- F. This Contract is a non-exclusive Contract between the parties.
- G. This Contract is deemed to be under and shall be governed by, and construed according to, the laws of the State of Florida.
- H. Any litigation arising out of this Contract shall be had in the Courts of Orange County, Florida.
- I. Contractor shall comply with all applicable federal, state, and local laws in the performance of work under the contract. To the extent applicable, Contractor shall comply with Florida public records laws, including Sections 119.0701(2) (b) 1 through 4 of the Florida Statutes. **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 THE PUBLIC RECORDS AT C/O DEPUTY CITY CLERK, [RECORDS@CITYOFORLANDO.NET](mailto:RECORDS@CITYOFORLANDO.NET), TELEPHONE NUMBER (407) 246-3538, 400 s. ORANGE AVE., ORLANDO, FL 32801.**

- J. The undersigned hereby certifies that this Contract is made without prior understanding, agreement or connection with any corporation, firm or person who submitted proposals for the Work covered by this Contract and is in all respects fair and without collusion or fraud. As to Contractor, the undersigned hereby warrants and certifies that they are authorized to enter into this Contract and to execute same on behalf of the Contractor as the act of the said Contractor.
- K. This Contract, including any Exhibits hereto, contains all the terms and conditions agreed upon by the parties. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind either party hereto. In the event of any dispute or conflict between the provisions of this Contract and any exhibit or attachment hereto, the terms of this Contract shall control.
- L. The City's Chief Procurement Officer or written designee shall have authority to act on behalf of the CRA in matters related to this Contract, including but not limited to the sending and receiving of any notices required hereunder.
- M. If any section, sentence, clause, phrase, provision, or other portion of this Contract is, for any reason, held invalid or unconstitutional by a court or other body of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of the Contract.
- N. This Contract is solely for the benefit of the parties to the Contract and no causes of action shall accrue upon or by reason hereof to or for the benefit of any third parties.

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

**COMMUNITY REDEVELOPMENT AGENCY  
FOR THE CITY OF ORLANDO, FLORIDA**

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the Community  
Redevelopment Agency of the City of Orlando, only.

By: \_\_\_\_\_  
Chief Procurement Officer, City of Orlando

Date: \_\_\_\_\_, 2018

DAVID BILLINGSLEY, CPSM, C.P.M.  
Name, Typed or Printed

Date: \_\_\_\_\_, 2018

\_\_\_\_\_  
ASSISTANT CITY ATTORNEY  
ORLANDO, FLORIDA

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**CONTRACTOR**

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

CORPORATE SEAL

\_\_\_\_\_  
Name & Title, Typed or Printed

\_\_\_\_\_  
Name of Company, Corp., etc.

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State and Zip

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by  
\_\_\_\_\_, as the \_\_\_\_\_, on behalf of \_\_\_\_\_

He/she (is) personally known to me or (has) produced \_\_\_\_\_ (type of identification)

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

(SEAL)

\_\_\_\_\_  
Signature of Person Taking Acknowledgment

\_\_\_\_\_  
Typed, Printed or Stamped Name of Person  
Taking Acknowledgment

My Commission Expires:

## **EXHIBIT “A”**

### **CONTRACTOR’S PROPOSAL**