



COUNTY ATTORNEY'S OFFICE  
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MEMORANDUM

**TO:** Mayor Jerry L. Demings  
and  
County Commissioners

**FROM:** Jeffrey J. Newton, County Attorney *JJN*  
Lee Bernbaum, Assistant County Attorney *LB*  
Contact: 407-836-7320

**DATE:** April 19, 2024

**SUBJECT:** **Consent Agenda for May 7, 2024**  
Approval and execution of settlement agreement between Orange County and Securitas Electronic Security, Inc., related to certain agreements for the installation of security equipment and other services for the correctional facility at 3722 Vision Blvd, Orlando, Florida

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Lamar Sharpe  
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Maria Vargas

This Consent Agenda item requests settlement authorization by the Board of County Commissioners ("Board") for the (pre-suit) dispute between Securitas Electronic Security, Inc. and Orange County, and approval and execution of the corresponding Settlement Agreement and Mutual Release.

**I. Background**

Securitas Electronic Security, Inc. is the successor in interest of Diebold, Inc. Orange County and Diebold entered into purchase order agreements for the installation of security equipment and related services for the correctional facility located at 3722 Vision Blvd, Orlando, Florida (the "Project"). The purchase order agreements between Diebold and Orange County were partially fulfilled and partial payments were made to Diebold. In October 2015, Securitas purchased the security services portion of Diebold and was to complete the work for the Project.

**II. The Dispute and Negotiations**

A dispute arose between Securitas and Orange County as to the remaining amounts due to Securitas for the Project. The dispute involved questions about the amounts claimed due, whether all work was completed properly, and the sufficiency of the documentation for the labor, parts, and administrative costs claimed by Securitas. Securitas' work on the Project concluded in 2020, and there were various discussions thereafter between Securitas staff and Orange County staff about the work and

payment for same. When those discussions failed to achieve resolution, Securitas' in-house became involved, as did the County Attorney's Office.

On October 23, 2023, Securitas' counsel sent a formal demand for payment, in which it claimed \$104,406.06 was due and owing. After months of negotiations – during which the County verified that certain change orders were approved and certain invoiced items were likely due, but questions remained about the propriety of the costs of the labor invoiced – a compromise settlement was agreed to by the parties.

### **III. The Settlement**

The parties have agreed to a settlement, contingent upon Board approval. The material terms of the settlement are as follows:

- a) Orange County will pay Securitas the total sum of \$52,957.10 in full and final settlement of the dispute.
- b) Securitas fully releases Orange County (and vice versa) for any and all claims, including all claims for payment, arising out of the Project.
- c) Securitas indemnifies and holds Orange County harmless from, any claims by Securitas, Diebold, and Securitas' or Diebolds' affiliates, successors, related entities, and subcontractors.

The parties entered into a contingent Settlement Agreement and Mutual Release, which is attached hereto. It was signed by Securitas on April 9, 2024.

### **IV. Recommendation**

Staff and the County Attorney's Office recommend that the Board approve the settlement.

**ACTION REQUESTED: Approval and execution of Settlement Agreement and Mutual Release by and between Securitas Electronic Security, Inc. and Orange County related to certain agreements for the installation of security equipment and other services for the correctional facility at 3722 Vision Blvd, Orlando, Florida**

Attachments

- c: Sara Flynn-Kramer, Manager, Capital Projects  
Ralph Odom, Jr., Project Manager, Capital Projects  
Peter Miller, Enterprise IT Security Manager, Information Systems  
Carrie Mathes, Manager, Procurement

BCC Mtg. Date: May 7, 2024

## **SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement and Mutual Release (the “**Agreement**”), dated April 2, 2024, is made and entered into by and between Securitas Electronic Security, Inc., now known as Securitas Technology Corporation, as successor of interest to Diebold, Incorporated (“**Securitas**”), and Orange County, a charter county and political subdivision of the State of Florida (hereinafter “**County**”). Securitas and County are individually referred to herein as a “**Party**” and are collectively referred to herein as the “**Parties**.”

### **BACKGROUND**

**WHEREAS**, County, Diebold, Incorporated, and later Securitas entered into certain agreements for the installation of security equipment and related services for a correctional facility located at 3722 Vision Blvd, Orlando, FL (the “**Project**”); and

**WHEREAS**, the Parties acknowledge and agree that this Agreement is being entered into to memorialize the resolution of a dispute between the Parties regarding the performance of each Parties’ obligations related to the Project (the “**Dispute**”) and the amount due to Securitas for work allegedly completed by Securitas; and

**WHEREAS**, the Parties have agreed to resolve the Dispute by each Party agreeing to release the other Party from certain claims related to or arising from the Project, except for those potential claims or indemnities specifically addressed hereunder;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Securitas and County hereby agree as follows:

### **AGREED TERMS**

#### **1. Mutual Release.**

- a) The Parties, on behalf of themselves, their predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates and assigns, and its and their past, present, and future officers, directors, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns, and successors-in-interest, and all persons acting by, through, under, or in concert with them, and each of them, hereby release and discharge the other Party, together with their predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates and assigns and its and their past, present, and future officers, directors, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns and successors-in-interest, and all persons acting by, through, under or in concert with them, and each of them, from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties, fees, wages, medical costs, pain and suffering, mental anguish, emotional distress, expenses (including attorneys' fees and costs actually incurred), and punitive damages, of any nature whatsoever, known or unknown, which either Party has, or may have had, against the other Party, whether or

not apparent or yet to be discovered, or which may hereafter develop, for any acts or omissions related to or arising from the Project.

- b) This Agreement resolves any claim for relief that is, or could have been alleged, no matter how characterized, including, without limitation, compensatory damages, damages for breach of contract, bad faith damages, reliance damages, liquidated damages, damages for humiliation and embarrassment, punitive damages, costs, and attorneys' fees related to or arising from the Project.
- c) Notwithstanding anything herein to the contrary Securitas agrees to indemnify County from and against certain liability, including, but not limited to, attorney's fees, costs, expenses, actions, and other debts specifically associated with claim(s) for payment of work performed on this Project. Said claims are limited to claims by Securitas employees and Securitas subcontractors who worked on, or allege to have worked on, this Project. Any other third parties that County may have engaged or initiated to work on this Project are beyond the scope of this provision, as are any claims by County employees or agents for work allegedly done on the Project.
- d) Securitas shall further indemnify County from and against any and all claims, actions, liability, and debts asserted or raised by Diebold, Incorporated and/or by Diebold Security Systems Inc. related to work it alleges or actually performed on the Project on behalf of and for the benefit of the County, including any claims arising out of purchase orders entered into by and between Diebold, Incorporated and the County.

**2. Attorneys' Fees.** The Parties acknowledge and agree that they are solely responsible for paying their respective attorneys' fees and costs incurred with regard to this Agreement and the Project, and that no Party or its attorney(s) shall seek any award of attorneys' fees or costs from another Party.

**3. No Outstanding or Known Future Claims or Causes of Action.** Each Party affirms that it has not filed with any governmental agency or court any type of action or report against the other Party, and currently knows of no existing act or omission by the other Party that may constitute a claim or liability excluded from the release in paragraph 3 above.

**4. Acknowledgment of Settlement.** The Parties acknowledge that: (i) upon receipt of payment to Securitas from County in the amount of Fifty Two Thousand Nine Hundred Fifty Seven Dollars and ten cents (\$52,957.10); and (ii) said payment shall be made within forty-five (45) days of approval and rendition of this Agreement by the Orange County Board of County Commissioners, and upon Securitas providing the necessary documents (e.g. W9) to the County for processing of the payment and except for potential liability articulated in Section 1 (c) and (d) above, this payment includes the mutual release of all claims, and is in full settlement of all claims or losses of whatsoever kind or character that they have, or may ever have had, against the other Party by reason of the Project; and (iii) by signing this Agreement, and accepting the consideration provided herein and the benefits of it, each Party is giving up forever any right to seek further monetary or other relief from the other Party for any acts or omissions up to and including the Effective Date, as set forth in paragraph 3 including, without limitation, the Project.

**5. No Admission of Liability.** The Parties acknowledge that this Agreement was agreed upon as a compromise and final settlement of disputed claims, and that entry into this Agreement, is not,

and may not be construed as, an admission of liability by either Party and is not to be construed as an admission that either Party engaged in any wrongful, tortious, or unlawful activity.

**6. Confidentiality.** The Parties expressly understand and agree that this Agreement and its contents (including, but not limited to, the fact of payment and the amounts to be paid hereunder) shall remain confidential and shall not be disclosed to any third party whatsoever, except the Parties' counsel, accountants, financial advisors, and tax professionals retained by them, any federal, state, or local governmental taxing or regulatory authority, and the Parties' management, officers and Board of Directors/Commissioners/Orange County Board of County Commissioners, and except as required by law or court order, such as disclosure under the Public Records Law, Chapter 119, Florida Statutes. The parties acknowledge that Orange County is subject to the Public Records Law, Chapter 119, Florida Statutes and as such, this Agreement and any payments thereunder are subject to disclosure and is recognized as a public document hereunder.

**7. Legally Binding Agreement.** The Parties intend that this Agreement be legally binding upon and shall inure to the benefit of each of them and their respective successors, assigns, executors, administrators, heirs, and estates.

**8. Entire Agreement.** Any recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the subject matter hereof. No modification of this Agreement shall be binding unless in writing and signed by each of the Parties hereto.

**9. New or Different Facts: No Effect.** Except as provided herein, this Agreement shall be, and remain, in effect despite any alleged breach of this Agreement or the discovery or existence of any new or additional fact, or any fact different from that which either Party now knows or believes to be true. Notwithstanding the foregoing, nothing in this Agreement shall be construed as, or constitute, a release of any Party's rights to enforce the terms of this Agreement.

**10. Severability and Interpretation.** Should any provision of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby and said illegal or invalid part, term, or provision shall be deemed stricken from this Agreement. This Agreement shall not be construed against either Party as the author or drafter of the Agreement. The headings within this Agreement are purely for convenience and are not to be used as an aid in interpretation.

**11. Governing Law and Choice of Forum.**

- a) This Agreement and all related documents and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of Florida, without giving effect to the conflict of law provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of Florida.
- b) Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other Party in any way arising from or relating to this Agreement and all contemplated transactions, including, but not limited to, contract, equity, tort, fraud, and statutory claims, in any forum other than the state or federal courts of Florida. Each Party irrevocably and unconditionally

submits to the exclusive jurisdiction of such courts. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

**12. Reliance on Chosen Counsel.** In entering into this Agreement, the Parties acknowledge that they have relied upon the legal advice of their respective attorneys, who are the attorneys of their own choosing, that such terms are fully understood and voluntarily accepted by them, and that, other than the consideration set forth herein, no promises or representations of any kind have been made to them by the other Party. The Parties represent and acknowledge that in executing this Agreement they did not rely, and have not relied, upon any representation or statement, whether oral or written, made by the other Party or by that other Party's agents, representatives, or attorneys with regard to the subject matter, basis, or effect of this Agreement or otherwise.

**13. Counterparts.** This Agreement may be executed by the Parties in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that PDF or electronic signatures to this Agreement are authentic and have the same force and effect as original, manual signatures.

**14. Authority to Execute Agreement.** By signing below, each Party warrants and represents that the person signing this Agreement has the authority to bind that Party and that the Party's execution of this Agreement is not in violation of any by-laws, covenants, or other restrictions placed upon them by their respective entities.

**15. Further Assurances.** Each of the Parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions hereof.

**16. Effective Date.** The terms of the Agreement shall be effective as of the date first written above (the "**Effective Date**") when executed by both Parties.

**READ THE FOREGOING DOCUMENT CAREFULLY. IT INCLUDES A RELEASE OF KNOWN AND UNKNOWN CLAIMS.**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, and intending to be legally bound, each of the Parties hereto has caused this Agreement to be executed as of the date set forth below.

SECURITAS ELECTRONIC SECURITY, INC.

ORANGE COUNTY, FLORIDA

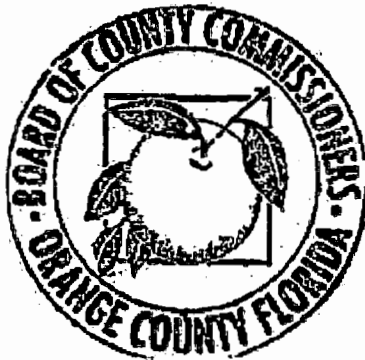
By: Board of County Commissioners

By: Michael J. Blum  
Name: Michael J. Blum  
Title: Secretary

Jerry L. Demings  
for Jerry L. Demings  
Orange County Mayor

Dated: April 9, 2024

Dated: May 7, 2024



ATTEST: Phil Diamond, CPA  
County Comptroller As Clerk of the  
Board of County Commissioners

By: Jennifer Lara-Klimetz  
Deputy Clerk  
Jennifer Lara-Klimetz  
Printed Name