

**GRANT AGREEMENT  
BETWEEN  
STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES  
AND  
CITY OF MARCO ISLAND**

**THIS GRANT AGREEMENT** (Agreement) is made and entered into by and between the Department of Financial Services (Department), an agency of the state of Florida (State), and the City of Marco Island (Grantee), and is effective as of the date last signed. The Department and the Grantee are sometimes referred to herein individually as a “Party” or collectively as the “Parties.”

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

**WHEREAS**, the Department, through its Division of State Fire Marshal, has the authority, pursuant to a specific appropriation of the General Appropriations Act to grant funds to the Grantee; and

**WHEREAS**, the Grantee represents that it is fully qualified and eligible to receive these grant funds to perform the tasks identified herein in accordance with the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, the Department and the Grantee do mutually agree as follows:

**A. Tasks and Performance Requirements:**

In accordance with Line 2479A of the General Appropriations Act for the 2023-2024 State fiscal year, the Grantee shall perform the tasks specified herein in accordance with the terms and conditions of this Agreement, including its attachments and exhibits, which are incorporated by reference herein.

The funds shall be utilized to purchase equipment, and the performance requirements are specifically described in Attachment 1, Scope of Work (herein referred to as the “SOW”).

**B. Incorporation of Laws, Rules, Regulations, and Policies:**

The Parties shall comply with the applicable state and federal laws, rules, regulations, and policies, including, but not limited to, those identified in this Agreement.

**C. Performance Period:**

The term of this Agreement (Agreement Period) begins on July 1, 2023, and, ends on June 30, 2024. Renewal of this Agreement is only possible if the Florida Legislature re-appropriates unexpended funds, which is not contemplated by the Parties upon entering this Agreement. Legislative funding restrictions prevent any extension of this Agreement Period.

**D. Funding Requirements of Section 215.971(1), Florida Statutes (F.S.):**

1. The Grantee may only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Performance Period.
2. The Grantee shall refund to the Department any balance of unobligated funds that was advanced or paid to the Grantee.
3. The Grantee shall refund to the Department all funds received in excess of the amount to which the Grantee or its subrecipients are entitled under the terms and conditions of this Agreement.

**E. Payment and Funding Considerations:**

1. Compensation. This is a cost reimbursement agreement. This Agreement shall not exceed \$212,500.00, and payment shall only be issued by the Department after acceptance of the Grantee's performance as set forth by the terms and conditions of this Agreement. The State's and the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
2. Payment Process. Subject to the terms and conditions established in this Agreement, and the billing procedures established by the Department, the Department agrees to pay the Grantee in accordance with section 215.422, F.S. The applicable interest rate can be obtained at: <http://www.myfloridacfo.com/Division/AA/Vendors/default.htm>.
3. Grantee Rights. A Vendor Ombudsman has been established within the Department. The duties of this individual include acting as an advocate for grantees who may be experiencing problems in obtaining timely payment(s) from a State agency. The Vendor Ombudsman may be reached at (850) 413-5516.
4. Taxes. The Department is exempted from the payment of State sales and use tax and Federal Excise Tax. Unless otherwise provided by law, the Grantee, however, shall not be exempted from paying State sales and use tax to the appropriate governmental agencies, nor shall the Grantee be exempted from paying its suppliers for any taxes on materials used to fulfill its contractual obligations under this Agreement. The Grantee shall not use the Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement. The Grantee shall provide the Department its taxpayer identification number upon request.
5. Expenditures. All expenditures must be in compliance with the laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the State's Reference Guide for State Expenditures, which can be obtained at: <http://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>. The Grantee may not spend funds received under this Agreement for purposes of lobbying the Florida legislature, the judicial branch, or a state agency.
6. Invoice Detail. Invoices submitted by the Grantee must fulfill all requirements specified in Attachment 1, Statement of Work (SOW), and include all supporting documentation, when applicable. The Grantee shall also submit invoices in sufficient detail to fulfill all applicable requirements of the State's Reference Guide for State Expenditures. All charges for performance under this Agreement or for reimbursement of expenses authorized by the

Department shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed.

7. Interim Payments. Payments will be made to the Grantee only after the Department's acceptance of the deliverable(s) per the deliverable payment points identified in the SOW; however, if the Department determines that circumstances warrant, the Department may accept partial performance and make partial payment for the partial performance.
8. Advance Payments. If authorized by sections 215.422(154) or 216.181(16), F.S., and approved in writing by the Department, the Grantee may be provided an advance as part of this Agreement.
9. Final Invoice. The Grantee shall submit the final invoice to the Department no later than sixty (60) days after the Agreement ends or is terminated; however, the final invoice shall be submitted on or before September 1st following the June 30th ending date of the final State fiscal year in which the project is appropriated funding by the Legislature. If the Grantee fails to do so, the Department may, at its sole discretion, refuse to honor any requests submitted after this time period and may consider the Grantee to have forfeited any and all rights to payment under this Agreement.

**F. Governing Laws of the State:**

1. Governing Law. The Grantee agrees that this Agreement is entered into in the State, and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State. Each Party shall perform its obligations herein in accordance with the terms and conditions of this Agreement. Without limiting the provisions of Section U., Dispute Resolution, the exclusive venue of any legal or equitable action that arises out of or relates to the Agreement shall be the appropriate State court in Leon County, Florida; in any such action, the Parties waive any right to jury trial.
2. Ethics. The Grantee shall comply with the requirements of sections 11.062 and 216.347, F.S. The Grantee shall not, in connection with this or any other agreement with the State, directly or indirectly:
  - a. Offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty; or
  - b. Offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee.

For purposes of subsection b., "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Department's Inspector General, or other authorized State official, the Grantee shall provide any type of information the Inspector General deems relevant to the Grantee's integrity or responsibility. Such information may include, but shall not be limited to, the Grantee's business or financial records, documents, or files of any type or form that refer to or relate to this Agreement. The Grantee shall retain such records in accordance with the record retention requirements of Part V of Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance.

3. Advertising. Subject to chapter 119, F.S., the Grantee shall not publicly disseminate any information concerning this Agreement without prior written approval from the Department, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking the Grantee's name and either a description of the Agreement or the name of the Department or the State in any material published, either in print or electronically, to any entity that is not a Party to this Agreement, except potential or actual authorized distributors, dealers, resellers, or service representatives.
4. Sponsorship. As required by section 286.25, F.S., if the Grantee is a nongovernmental organization that sponsors a program that is financed wholly or in part by State funds, including any funds obtained through this Agreement, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (Grantee's name) and the State of Florida, Department of Financial Services." If the sponsorship reference is in written material, the words "State of Florida, Department of Financial Services" shall appear in the same size letters or type as the name of the Grantee.
5. Conflict of Interest. This Agreement is subject to chapter 112, F.S. The Grantee shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. The Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Grantee or its affiliates.
6. Records Retention. The Grantee shall retain all records that it made or received in conjunction with the Agreement for the longer of five (5) years after the end of the Agreement Period and all pending matters or the period required by the General Records Schedules maintained by the Florida Department of State (available at: <https://dos.myflorida.com/media/703328/gs1-sl-2020.pdf>). If the Grantee's record retention requirements terminate prior to the requirements stated herein, the Grantee may meet the Department's record retention requirements for this Agreement by transferring its records to the Department at that time, and by destroying duplicate records in accordance with section 501.171, F.S., and, if applicable, section 119.0701, F.S. The Grantee shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). See <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.
7. MyFloridaMarketPlace. Disbursements under this Agreement are disbursements of State financial assistance to a recipient as defined in the Florida Single Audit Act, section 215.97, F.S., and are exempt from the MyFloridaMarketPlace Transaction Fee pursuant to Rule 60A-1.031(3)(i), F.A.C. Payments will be made according to the SOW and not through the MyFloridaMarketPlace system.

#### **G. Return or Recoupment of Funds:**

1. If the Grantee or its independent auditor discovers that an overpayment has been made, the Grantee shall repay said overpayment within forty (40) calendar days without prior notification from the Department. If the Department first discovers an overpayment has been made, the Department will notify the Grantee in writing. Should repayment not be made in a timely manner, the Department shall be entitled to charge interest at the lawful rate of interest on the outstanding balance beginning forty (40) calendar days after the date of notification or

discovery. A check for the amount due should be sent to the Department's Agreement Manager and made payable to the "Department of Financial Services."

2. Notwithstanding the damages limitations of Section W, Limitation of Liability, if the Grantee's non-compliance with any provision of the Agreement results in additional costs or monetary loss to the Department or the State, the Department can recoup the costs or losses from monies owed to the Grantee under this Agreement or any other agreement between the Grantee and any State entity. If additional costs or losses are discovered when no monies are available under this Agreement or any other agreement between the Grantee and any State entity, the Grantee shall repay such costs or losses to the Department in full within thirty (30) days from the date of discovery or notification, unless the Department agrees, in-writing, to an alternative timeframe.

#### **H. Audits and Records:**

1. Representatives of the Department, including the State's Chief Financial Officer, the State's Auditor General, and representatives of the federal government, shall have access to any of the Grantee's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.
2. The Grantee shall maintain books, records, and documents in accordance with the generally accepted accounting principles to sufficiently and properly reflect all expenditures of funds provided by the Department under this Agreement.
3. The Grantee shall comply with all applicable requirements of section 215.97, F.S., and Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance. If the Grantee is required to undergo an audit, the Grantee shall disclose all related party transactions to the auditor.
4. The Grantee shall retain all its records, financial records, supporting documents, statistical records, and any other documents, including electronic storage media, pertinent to this Agreement in accordance with the record retention requirements of Part V of Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance. The Grantee shall cooperate with the Department to facilitate the duplication and transfer of such records or documents upon the Department's request.
5. The Grantee shall include the aforementioned audit and record keeping requirements in all approved subrecipient contracts and assignments.

#### **I. Employment Eligibility Verification: N/A**

#### **J. Nondiscrimination:**

The Grantee shall not unlawfully discriminate against any individual employed in the performance of this Agreement due to race, religion, color, sex, physical handicap unrelated to such person's ability to engage in this work, national origin, ancestry, or age. The Grantee shall provide a harassment-free workplace, and any allegation of harassment shall be given priority attention and action.

**K. Continuing Duty of Disclosure of Legal Proceedings and Instances of Fraud:**

1. The Grantee shall provide written notice to the Department disclosing any criminal litigation, investigation, or proceeding that arises during the Agreement Period involving the Grantee, or, to the extent the Grantee is aware, any of the Grantee's subrecipients or contractors (or any of the foregoing entities' current officers or directors). The Grantee shall also provide written notice to the Department disclosing any civil litigation, arbitration, or proceeding that arises during the Agreement Period, to which the Grantee (or, to the extent the Grantee is aware, any subrecipient or contractor hereunder) is a party, and which:
  - a. Might reasonably be expected to adversely affect the viability or financial stability of the Grantee or any subrecipient or contractor hereunder; or
  - b. Involves a claim or written allegation of fraud against the Grantee, or any subrecipient or contractor hereunder, by a governmental or public entity arising out of business dealings with governmental or public entities.

All notices under this Section must be provided to the Department within thirty (30) business days following the date that the Grantee first becomes aware of any such litigation, investigation, arbitration, or other proceeding (collectively, a "Proceeding"). Details of settlements that are prevented from disclosure by the terms of the settlement must be annotated as such.

2. This duty of disclosure applies to each officer and director of the Grantee, subrecipients, or contractors when any proceeding relates to the officer's or director's business or financial activities.
3. Instances of Grantee operational fraud or criminal activities, regardless of whether a legal proceeding has been initiated, shall be reported to the Department's Agreement Manager within twenty-four (24) hours of the Grantee being made aware of the incident.
4. The Grantee shall promptly notify the Department's Agreement Manager of any Proceeding relating to or affecting the Grantee's, subrecipient's, or contractor's business. If the existence of such Proceeding causes the State to conclude that the Grantee's ability or willingness to perform the Agreement is jeopardized, the Grantee shall be required to provide the Department's Agreement Manager all reasonable assurances requested by the Department to demonstrate that:
  - a. The Grantee will be able to perform the Agreement in accordance with its terms and conditions; and
  - b. The Grantee and/or its employees, agents, subrecipients, or contractor(s) have not and will not engage in conduct in performance under the Agreement that is similar in nature to the conduct alleged in such Proceeding.

**L. Assignments, Subgrants, and Contracts:**

1. Unless otherwise specified in the SOW or through prior written approval of the Department, the Grantee may not: 1) subgrant any of the funds provided to the Grantee by the Department under this Agreement; 2) contract its duties or responsibilities under this Agreement out to a third party; or 3) assign any of the Grantee's rights or responsibilities hereunder, unless specifically permitted by law to do so. Any such subgrant, contract, or assignment occurring without the prior approval of the Department shall be null and void. If the Department approves

transfer of the Grantee's obligations, the Grantee remains responsible for all work performed and all expenses incurred in connection with the Agreement. In addition, this Agreement shall bind the successors, assigns, and legal representatives of the Grantee, and of any legal entity that succeeds the Grantee, to the Grantee's obligations to the Department.

2. The Grantee agrees to be responsible for all work performed and all expenses incurred in fulfilling the obligations of this Agreement. If the Department permits the Grantee to contract all or part of the work contemplated under this Agreement, including entering into contracts with vendors for services, it is understood by the Grantee that all such contract arrangements shall be evidenced by a written document containing all provisions necessary to ensure the contractor's compliance with applicable state and federal laws. The Grantee further agrees that the Department shall not be liable to the contractor for any expenses or liabilities incurred under the contract and that the Grantee shall be solely liable to the contractor for all expenses and liabilities incurred under the contract. The Grantee, at its expense, will defend the Department against such claims.
3. The Grantee agrees that the Department may assign or transfer its rights, duties, or obligations under this Agreement to another governmental entity upon giving prior written notice to the Grantee.
4. The Grantee agrees to make payments to any subrecipient or contractor within seven (7) working days after receipt of full or partial payments from the Department unless otherwise stated in the agreement between the Grantee and the subrecipient or contractor. The Grantee's failure to pay its subrecipients or contractors within seven (7) working days will result in a statutory penalty charged against the Grantee and paid to the subrecipient or contractor in the amount of one-half of one (1) percent of the amount due per day from the expiration date of the period allowed herein for payment. Such statutory penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due (see section 287.0585, F.S.)

**M. Nonexpendable Property:**

1. For the requirements of this Section of the Agreement, "nonexpendable property" is the same as "property" as defined in section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-consumable and nonexpendable nature, with a value or cost of \$1,000 or more, and a normal expected life of one year or more; hardback-covered bound books that are circulated to students or the general public, with a value or cost of \$25 or more; and hardback-covered bound books, with a value or cost of \$250 or more).
2. All nonexpendable property purchased under this Agreement shall be listed on the property records of the Grantee. For the purposes of section 273.03, F.S., the Grantee is the custodian of all nonexpendable property, and shall be primarily responsible for the supervision, control, and disposition of the property in his or her custody (but may delegate its use and immediate control to a person under his or her supervision and may require custody receipts). The Grantee must submit an inventory report to the Department with the final expenditure report and inventory annually and maintain accounting records for all nonexpendable property purchased under the Agreement. The records must include information necessary to identify the property, which, at a minimum, must include the following: property tag identification number; description of the item(s); if a group of items, the number and description of the components;

- physical location; name, make, or manufacturer; year and/or model; manufacturer's serial number(s); if an automobile, the vehicle identification number and title certificate number; date of acquisition; cost or value at date of acquisition; date last inventoried; and the current condition of the item.
3. At no time shall the Grantee dispose of nonexpendable property purchased under this Agreement without the written permission of, and in accordance with instructions from, the Department. In addition to its plain meaning, "dispose of" includes selling, exchanging, transferring, distributing, gifting, and loaning. If the Grantee proposes to dispose of the nonexpendable property, or take any other action that will impact its ownership of the property or modify the use of the property other than for the purposes stated herein, the Department shall have the right, in its sole discretion, to demand that the Grantee reimburse the Department the fair market value of the impacted nonexpendable property.
  4. The Grantee is responsible for any loss, damage, or theft of, and any loss, damage, or injury caused by the use of, nonexpendable property purchased with State funds and held in its possession for use in accordance with this Agreement. The Grantee shall immediately notify the Department, in writing, upon discovery of any property loss with the date and reason(s) for the loss.
  5. The Grantee shall be responsible for the correct use of all nonexpendable property obtained using funds provided by this Agreement, and for the implementation of adequate maintenance procedures to keep the nonexpendable property in good operating condition.
  6. A formal amendment to this Agreement is required prior to the purchase of any item of nonexpendable property not specifically listed in the approved Agreement budget (see the SOW).

**N. Requirements Applicable to the Purchase of, or Improvements to, Real Property:**

If funding provided under this Agreement is used for the purchase of, or improvements to, real property, such funds are contingent upon the Grantee granting to the Department a security interest in the property in the amount of the funding provided by this Agreement for the purchase of, or improvements to, the real property for five (5) years from the date of purchase, the completion of the improvements, or as further required by law (see section 287.05805, F.S.).

**O. Insurance:**

The Grantee shall, at its sole expense, maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Agreement. Adequate insurance coverage is a material obligation of the Grantee, and the failure to maintain such coverage may void the Agreement. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers authorized to write policies in the State. Specific insurance requirements, if any, are listed in the SOW.

Upon execution of this Agreement, the Grantee shall provide the Department written verification of the existence and amount for each type of applicable insurance coverage. Within thirty (30) days of the effective date of the Agreement, the Grantee shall furnish the Department proof of applicable insurance coverage by standard ACORD form certificates of insurance. If any applicable coverage is cancelled



by the insurer for any reason, the Grantee shall immediately notify the Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee.

**P. Intellectual Property Rights:**

Where activities supported by this Agreement result in the creation of intellectual property rights, the Grantee shall notify the Department, and the Department will determine whether Grantee will be required to grant the Department a perpetual, irrevocable, royalty-free, nonexclusive license to use, and to authorize others to use for State government purposes, any resulting patented, copyrighted, or trademarked work products developed under this Agreement. The Department will also determine whether Grantee will be required to pay all or a portion of any royalties resulting from such patents, copyrights, or trademarks.

**Q. Independent Contractor Status:**

It is mutually understood and agreed to that at all times during the Grantee's performance of its duties and responsibilities under this Agreement, that the Grantee is acting and performing as an independent contractor. The Department shall neither have nor exercise any control or direction over the methods by which the Grantee shall perform its work and functions other than as provided herein. Nothing in this Agreement is intended to or shall be deemed to constitute a partnership or joint venture between the Parties.

1. Unless the Grantee is a State agency, the Grantee (and its officers, agents, employees, subrecipients, contractors, or assignees), in performance of this Agreement, shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. Further, unless specifically authorized to do so, the Grantee shall not represent to others that, as the Grantee, it has the authority to bind the Department or the State.
2. Unless the Grantee is a State agency, neither the Grantee nor its officers, agents, employees, subrecipients, contractors, or assignees, are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.
3. The Grantee agrees to take such actions as may be necessary to ensure that each subrecipient or contractor will also be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.
4. Unless agreed to by the Department in the SOW, the Department will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial, clerical support, etc.) to the Grantee or its subrecipient, contractor, or assignee.
5. The Department shall not be responsible for withholding taxes with respect to the Grantee's compensation hereunder. The Grantee shall have no claim against the Department for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits, or employee benefits of any kind. The Grantee

shall ensure that its employees, subrecipients, contractors, and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State.

6. At all times during the Agreement Period, the Grantee must comply with the reporting and Reemployment Assistance contribution payment requirements of chapter 443, F.S.

#### **R. Electronic Funds Transfer:**

**The Grantee agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last Party signed this Agreement. Copies of the authorization form and a sample blank enrollment letter can be found at: <http://www.myfloridacfo.com/Division/AA/Vendors/>.**

Questions should be directed to the EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

#### **S. Entire Agreement:**

The following documents are attached and incorporated into this Agreement, are considered an integral part of the Agreement, and embody the entire Agreement. This Agreement supersedes all previous oral or written communications, representations, or agreements on this subject. If there are any conflicting provisions between the documents that make up the Agreement, the following order of precedence applies:

1. Attachment 1, Statement of Work;
2. Pages 1-16 of this Agreement;
3. Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance (with its Exhibit 1);
4. Attachment 3, Index of Applicable Laws and Regulations; and
5. Addendum A, Public Records Requirements (all references in this addendum to "Contractor" shall be read to say "Grantee," and all references to "Contract" shall be read to say "Agreement").
6. Appendix 1, Grantee's Obligation with Vendor for Equipment;
7. Attachment 4, Status Update Request Form; and
8. Attachment 5, Reimbursement Request Letter.

#### **T. Time is of the Essence:**

Time is of the essence regarding the performance requirements set forth in this Agreement. The Grantee is obligated to timely complete the deliverables under this Agreement and comply with all other deadlines necessary to perform the Agreement, which include, but are not limited to, attendance of meetings or submittal of reports.

#### **U. Termination:**

1. Termination Due to the Lack of Funds.

If funds become unavailable for the Agreement's purpose, such event will not constitute a default by the Department or the State. The Department agrees to notify the Grantee in writing at the earliest possible time if funds are no longer available. If any funding identified by Grantee

as funds to be provided for completion of the project as described herein becomes unavailable, including if any State funds upon which this Agreement depends are withdrawn or redirected, the Department may terminate this Agreement by providing written notice to the Grantee. The Department will be the final authority as to the availability of funds.

2. Termination for Cause.

The Department may terminate the Agreement if the Grantee fails to:

- a. Satisfactorily complete the deliverables within the time specified in the Agreement;
- b. Maintain adequate progress, thus endangering performance of the Agreement;
- c. Honor any term of the Agreement; or
- d. Abide by any statutory, regulatory, or licensing requirement.

The Grantee shall continue to perform any work not terminated. The Department's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under the Agreement. The Grantee shall not be entitled to recover any cancellation charges or lost profits. Upon termination, the Department may require that the Grantee return to the Department any funds that were used for purposes that are considered ineligible under:

- a. This Agreement; or
- b. Applicable program laws, rules, and regulations governing the use of funds under this Agreement.

3. Termination for Convenience.

The Department may terminate this Agreement, in whole or in part, by providing written notice to the Grantee that the Department determined, in its sole discretion, it is in the State's interest to do so. The Grantee will cease performance upon receipt of the Department's notice of termination, except as necessary to complete the continued portion of the Agreement, if any. The Grantee will not be entitled to recover any cancellation charges or lost profits.

4. Grantee's Responsibilities upon Termination.

If the Department provides a notice of termination to the Grantee, except as otherwise specified by the Department in that notice, the Grantee shall:

- a. Stop work under this Agreement on the date and to the extent specified in the notice.
- b. Complete performance of such part of the work that has not been terminated by the Department, if any.
- c. Take such action as may be necessary, or as the Department may specify, to protect and preserve any property which is in the possession and custody of the Grantee, and in which the Department has or may acquire an interest.
- d. Transfer, assign, and make available to the Department all property and materials belonging to the Department upon the effective date of termination of this Agreement. No extra compensation will be paid to the Grantee for its services in connection with such transfer or assignment.

**V. Dispute Resolution:**

Unless otherwise stated in the SOW, disputes concerning the performance under the Agreement will be decided by the Department, who shall reduce the decision to writing and serve a copy to the Grantee. If a Party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under the terms of the Agreement will be in State courts, and the venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the Parties agree

to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

**W. Indemnification:**

1. The Grantee shall be fully liable for the actions of its agents, employees, partners, subrecipients, or contractors and shall fully indemnify, defend, and hold harmless the State and the Department, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Grantee, its agents, employees, partners, subrecipients, or contractors provided, however, that the Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Department.
2. Further, the Grantee shall fully indemnify, defend, and hold harmless the State and the Department from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right provided, however, that the foregoing obligation shall not apply to the Department's misuse or modification of the Grantee's products or the Department's operation or use of the Grantee's products in a manner not contemplated by the Agreement. If any product is the subject of an infringement suit, or in the Grantee's opinion is likely to become the subject of such a suit, the Grantee may at its sole expense procure for the Department the right to continue using the product or to modify it to become non-infringing. If the Grantee is not reasonably able to modify or otherwise secure the Department the right to continue using the product, the Grantee shall remove the product and refund the Department the amounts paid in excess of a reasonable rental for past use. The Department shall not be liable for any royalties.
3. The Grantee's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or the Department giving the Grantee:
  - a. written notice of any action or threatened action,
  - b. the opportunity to take over and settle or defend any such action at the Grantee's sole expense, and
  - c. assistance in defending the action at the Grantee's sole expense.

The Grantee shall not be liable for any cost, expense, or compromise incurred or made by the State or the Department in any legal action without the Grantee's prior written consent, which shall not be unreasonably withheld.

NOTE: For the avoidance of doubt, if the Grantee is a State agency or subdivision, as defined in section 768.28(2), F.S., pursuant to section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability to the other Party for the other Party's negligence.

**X. Limitation of Liability:**

Unless otherwise specifically enumerated in this Agreement, no Party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement requires the Grantee to back-up data or records), even if the Party has been advised that such damages are possible. No Party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and the Department may, in addition to other remedies available to them

at law or in equity and upon notice to the Grantee, retain such monies from amounts due the Grantee as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them.

**Y. Force Majeure and Notice of Delay from Force Majeure:**

Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor caused by the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subrecipients, contractors, or suppliers if no alternate source of supply is available. However, if a delay arises from the foregoing causes, the Party shall take all reasonable measures to mitigate all resulting delay or disruption to the project in accordance with the Party's performance requirements under this Agreement. If the Grantee believes any delay is excusable under this Section, the Grantee shall provide written notice to the Department describing the delay or potential delay and the cause of the delay within: ten (10) calendar days after the cause that creates or will create the delay first arose (if the Grantee could reasonably foresee that a delay could occur as a result); or five (5) calendar days after the date the Grantee first had reason to believe that a delay could result (if the delay is not reasonably foreseeable). **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this Section is a condition precedent to such remedy. The Department, in its sole discretion, will determine if the delay is excusable under this Section and will notify the Grantee of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from the Department for any reason. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this Section, after the causes have ceased to exist, the Grantee shall resume performance, unless the Department determines, in its sole discretion, that the delay will significantly impair the ability of the Grantee to timely complete its obligations under this Agreement, in which case, the Department may terminate the Agreement in whole or in part.

**Z. Mandatory Disclosure Requirements:**

1. Conflict of Interest. This Agreement is subject to chapter 112, F.S. The Grantee shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. The Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Grantee or its affiliates.
2. Convicted Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.133(1)(a), F.S., are placed on the convicted vendor list. Pursuant to section 287.133(2)(a), F.S.: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

3. Discriminatory Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.134(1)(a), F.S., are placed on the discriminatory vendor list. Pursuant to section 287.134(2)(a), F.S.: “An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”
4. Antitrust Violator Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.137(1)(a), F.S., are placed on the antitrust violator vendor list. Pursuant to section 287.137(2)(a), F.S.: “A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.”
5. Department Inspection of Records. Pursuant to section 216.1366, F.S., the Grantee shall permit the Department to inspect the Grantee’s financial records, papers, and documents that are directly related to the performance of the Agreement or the expenditure of state funds and the Contractor’s programmatic records, papers, and documents which the Department determines are necessary to monitor the performance of the Agreement or to ensure that the terms of the Agreement are being met. The Contractor shall provide such records, papers, and documents to the Department’s Contract Manager within 10 business days after a request is made to the Contractor.
6. Foreign Gifts and Contracts. The Grantee shall comply with any applicable disclosure requirements in section 286.101, F.S. Pursuant to section 268.101(7), F.S.: “In addition to any fine assessed under [section 286.101(7)(a)], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.”

**AA. Severability:**

If any provision of this Agreement, in whole or in part, is held to be void or unenforceable by a court of competent jurisdiction, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable, and all other provisions remain in full force and effect.

**BB. Survival:**

Any right or obligation of the Parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

**CC. Execution in Counterparts:**

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**DD. Contact Information for Grantee and Department Contacts:**

**Grantee's Payee:**

**Grantee's Agreement Manager:**

Guillermo Polanco, Finance Director	Chris Byrne, Fire Chief
50 Bald Eagle Drive	50 Bald Eagle Drive
Marco Island, Florida 34145	Marco Island, Florida 34145
(239) 389-5016	(239) 389-5047
gpolanco@cityofmarcoisland.com	cbyrne@cityofmarcoisland.com

**Department's Agreement Manager:**

Ginie Chibuzor

200 E. Gaines Street

Tallahassee, Florida 32399

(850) 413-3631

Ginie.chibuzor@myfloridacfo.com

If any of the information provided in this Section changes after the execution of this Agreement, the Party making such change will provide written notice to the other Party of such change. Such changes do not require a formal amendment to the Agreement.

**EE. Notices:**

The contact information provided in the immediately preceding Section shall be used by the Parties for all communications under this Agreement. Where the terms "written notice" or notice "in writing" are used to specify a notice requirement herein, said notice will be deemed to have been given:

1. when personally delivered;
2. When transmitted via facsimile with confirmation of receipt or email with confirmation of receipt if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid);
3. The day following the day (except if not a business day, then the next business day) on which the same has been delivered prepaid to a recognized overnight delivery service; or
4. On the date actually received or the date of the certification of receipt.

**IN WITNESS THEREOF**, and in consideration of the mutual covenants set forth above and in the documents that make up this Agreement, the Parties have caused to be executed this Agreement by their undersigned, duly-authorized officials.

**CITY OF MARCO ISLAND**

**DEPARTMENT OF FINANCIAL SERVICES**

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

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

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## Attachment 1

### STATEMENT OF WORK

1. **Project Description:** Line 2479A of the General Appropriations Act for the 2023-2024 State fiscal year provides the appropriation of \$212,500.00 to the Grantee. The funds will be used for the purchase of equipment, specifically a high water fire suppression vehicle.
2. **Grantee's Responsibilities:** The Grantee shall:
  - a. Purchase the equipment as specified in Appendix 1, Grantee's Obligation with Vendor for Equipment.
  - b. Provide the Department with the required supporting documents with the invoice as specified in Section 5, Invoice Submittal and Payment Schedule.
  - c. Receive the equipment as described in Appendix 1 in a timely manner not to exceed the Performance Period stated in Section C., Performance Period, of the Agreement.
  - d. Provide the Department with sufficient documentation that ensures receipt of the equipment. Sufficient documentation shall include, but not be limited to, documentation evidencing transfer of title of the equipment, evidence of the VIN showing Grantees ownership, or insurance documentation in the Grantee's name.
  - e. Provide the Department with documentation, upon Department's demand, evidencing status reports. Grantee shall provide status report documentation on the Status Update Request Form, incorporated by reference as Attachment 4.
3. **Department's Responsibilities:** The Department shall monitor the Grantee's progress as it deems necessary to verify that all requirements of the Agreement are being performed in accordance with this Agreement. The Department shall review submitted documentation and process payments to the Grantee to reimburse allowable, reasonable, and necessary expenditures, not to exceed \$212,500.00.
4. **Deliverables:** The Grantee shall complete the following deliverable:

<b>Deliverable No. 1 – Purchase of Equipment</b>		
<b>Task</b>	<b>Documentation</b>	<b>Financial Consequences</b>
Purchase and receipt of equipment as described in Appendix 1, Grantee's Obligation with Vendor for Equipment.	<p>A. Grantee must provide proof of payment of the equipment in the form of cleared check(s), bank statement(s), or electronic fund transfer(s).</p> <p>B. Grantee must provide proof of receipt of the equipment in the form of transfer of title of the equipment, evidence of the VIN showing Grantees ownership, or insurance documentation in the Grantee's name.</p>	The Department will not reimburse the Grantee pursuant to the Agreement for any equipment received outside of the specified Performance Period, or if accurate and sufficient documentation is not received from the Grantee.
<b>TOTAL AMOUNT NOT TO EXCEED \$212,500.00.</b>		

5. **Invoice Submittal and Payment Schedule:** This is a cost reimbursement contract. The Department will reimburse the Grantee upon satisfactory completion of the deliverable requirements specified in Section 4, Deliverables, and in accordance with the terms and conditions of this Agreement for a total dollar amount not to exceed \$212,500.00 subject to the availability of funds. To request reimbursement, the Grantee shall:
- a. Complete the Reimbursement Request Letter, incorporated by reference as Attachment 5, signed by the Grantee's Agreement Manager certifying that the costs being claimed in the invoice package:
    - i. Are specifically for the equipment represented to the State in the budget appropriation;
    - ii. Have been paid;
    - iii. Were incurred within the Performance Period as specified in Section C, Performance Period, of the Agreement; and
    - iv. Are not a duplicate, and duplicates will not be submitted to another funding source.
  - b. Provide all documentation necessary to demonstrate completion of the Deliverable listed in Section 4, Deliverables.
  - c. Provide the itemized invoice from the vendor listed in Appendix 1, that matches the equipment described in Appendix 1.
  - d. Provide proof of payment to the specified vendor.
6. **Financial Consequences for Failure to Timely and Satisfactorily Perform:** Failure to complete the required duties outlined in this SOW shall result in the automatic rejection of a request for reimbursement of the associated expenditures for the applicable deliverable(s). Failure to provide documentation required in Section 4, Deliverables within the specified Performance Period shall result in the expenditure not being reimbursed by the Department.

This provision for financial consequences shall not affect the Department's right to terminate the Agreement as provided elsewhere in the Agreement.

7. **Disposition of Property:** Pursuant to Section M, Nonexpendable Property, of this Agreement, upon satisfactory completion of the requirements of the Agreement, the Grantee is authorized to retain ownership of any nonexpendable property purchased under this Agreement; however, the Grantee hereby grants to the Department a right of first refusal in all such property prior to disposition of any such property during its depreciable life, in accordance with the depreciation schedule in use by the Grantee, but not to exceed five (5) years following the termination of the Agreement. The Grantee shall provide written notice of any such planned disposition and await the Department's response prior to disposing of the property. "Disposition" as used herein, includes, but is not limited to, the Grantee no longer using the nonexpendable property for the uses authorized herein, and the sale, exchange, transfer, trade-in, or disposal of any such nonexpendable property. The Department, in its sole discretion, may require the Grantee to refund to the Department the fair market value of the nonexpendable property at the time of disposition rather than taking possession of the nonexpendable property.

*-End of Attachment 1 (Statement of Work)-*

## **Appendix 1**

Grantee's Obligation with Vendor for Equipment



**Equipment Proposal**

Proposal # 997

This Equipment Proposal (the "Proposal") has been prepared by Ten-8 Fire & Safety, LLC ("Company") in response to the undersigned Customer's request for a proposal. This Proposal is comprised of the special terms set forth below, the Proposal Option List, Warranty, and Company's Purchasing Terms and Conditions. Through its signature below or other Acceptance (as defined below), Customer acknowledges having received, read and being bound by this Proposal, all attachments and Company's Purchasing Terms and Conditions.

**Date:** March 12, 2024 ("Proposal Date")      **Customer:** City of Marco Island Fire Department ("Customer")

**Customer Address:** 1310 San Marco Rd., Marco Island, Florida 34145

Qty	Product Description & Options	Price
1	<b>Pierce Manufacturing Freightliner 4x4 Pumper based on NPPGOV LOC Contract            PS20240 Model 3.03 Ten-8 Bid #997</b>	<b>\$736,184.00</b>
	<b>100% Prepay discount (payment due time of order) includes performace bond</b>	<b>(\$65,000.00)</b>
	<b>NFPA Required Loose Equipment</b>	<b>\$53,787.00</b>
	<b>Marco Island Fire Department Member #M-5701959</b>	
	<b>Total:</b>	<b>\$724,971.00</b>
** Pricing is subject to change as follows: (a) Commercial chassis price is an estimate; final chassis price will be determined when chassis is delivered by the manufacturer to <b>the original equipment manufacturer ("OEM")</b> . The OEM will notify Company of its final price, and Company will notify Customer of the final price. (b) Persistent Inflationary Environment: If the Producer Price Index of Components for Manufacturing [www.bls.gov Series ID: WPUID6112] (" <b>PPI</b> ") <b>has increased at a compounded annual growth rate of 5.0%</b> or more between the month the OEM <b>accepts this order ("Order Month")</b> and a month 14 months prior to the <b>then predicted "ready for pick up" date ("Evaluation Month")</b> , then Company may update the pricing in an amount equal to the increase in PPI over 5.0% in each year or fractional year between the Order Month and the Evaluation Month. Company will document any such <b>updated price for Customer's approval</b> , and Company will provide to Customer the option to cancel this Order for 45 days if Customer does not accept the updated price. If Customer accepts or fails to respond within such 45 day period, Customer will be obligated to complete the Product purchase at the updated Total price.		

**Delivery Timing:** The Product described above in the Product Description and Options Section of this document will be built by and shipped from the manufacturer approximately **30.5-32.5** (months) after Company receives Customer's **acceptance** of this Proposal as defined below, subject to market and production conditions, Force Majeure, delays from the chassis manufacturer, changes to Order Specifications, or any other circumstances or cause beyond Company's or manufacturer's control.

**Other:** \_\_\_\_\_


Unless accepted within **30** days from date of proposal, the right is reserved to withdraw this proposal.

*Order continues on immediately following page.*

ACCEPTANCE OF THIS PROPOSAL CREATES AN ENFORCEABLE BINDING AGREEMENT BETWEEN COMPANY AND CUSTOMER. "ACCEPTANCE" MEANS THAT CUSTOMER DELIVERS TO COMPANY: (A) A PROPOSAL SIGNED BY AN AUTHORIZED REPRESENTATIVE, OR (B) A PURCHASE ORDER INCORPORATING THIS PROPOSAL, WHICH IS DULY APPROVED, TO THE EXTENT APPLICABLE, BY CUSTOMER'S GOVERNING BOARD. ACCEPTANCE OF THIS PROPOSAL IS EXPRESSLY LIMITED TO THE TERMS CONTAINED IN THIS PROPOSAL AND COMPANY'S PURCHASING TERMS AND CONDITIONS. ANY ADDITIONAL OR DIFFERENT TERMS, WHETHER CONTAINED IN CUSTOMER'S FORMS OR OTHERWISE PRESENTED BY CUSTOMER AT ANY TIME, ARE HEREBY REJECTED.

**INTENDING TO CREATE A BINDING AGREEMENT**, Customer and Company have each caused this Proposal to be executed by their duly authorized representatives as of date of the last signature below.

**Customer: City of Marco Island Fire Department**

By: 

Title: City Manager

Print: Michael A. McNeas

Date: March 19, 2024

**Ten-8 Fire & Safety, LLC**

By: 

Title: **Authorized Sales Representative**

Print: **Eric Huovinen**

Date: **March 12, 2024**



## PURCHASING TERMS AND CONDITIONS

These Purchasing Terms and Conditions, together with the Equipment Proposal and all attachments (collectively, the "Agreement") are entered into by and between Ten-8 Fire & Safety, LLC, a Florida company ("Company") and Customer (as defined in Ten-8 Fire & Safety LLC's Equipment Proposal document) and is effective as of the date specified in Section 3 of these Purchasing Terms and Conditions. Both Company and Customer may be referred throughout this document individually as a "party" or collectively as the "parties."

1. Definitions.

- a. **"Acceptance"** has the same meaning set forth in Company's Equipment Proposal.
- b. **"Company's Equipment Proposal"** means the Equipment Proposal provided by Company and prepared in response to Customer's request for proposal for a fire apparatus or associated equipment.
- c. **"Cooperative Purchasing Contract"** means an Agreement between Company and a public authority, including without limitation, a department, division, agency of a municipal, county or state government ("Public Authority"), that adopts or participates in an existing agreement between Company and another non-party customer (including, but not limited to such non-party customer's equipment proposal, its applicable exhibits, attachments and purchasing terms and conditions), often referred to as a "piggyback arrangement," which is expressly agreed to, in writing, by Company. Company has sole discretion to determine whether it will agree to such a Cooperative Purchasing Contract.
- d. **"Delivery"** means when Company delivers physical possession of the Product to Customer.
- e. **"Manufacturer"** means the Manufacturer of any Product.
- f. **"Prepayment Discount"** means the prepayment discounts, if any, specified in Company's Equipment Proposal.
- g. **"Product"** means the fire apparatus and any associated equipment manufactured or furnished for Customer by Company pursuant to the Specifications.
- h. **"Purchase Price"** means the Total price set forth in the Quotation, after applicable pricing adjustments set forth in the Quotation.
- i. **"Purchasing Terms and Conditions"** means these Purchasing Terms and Conditions; however, if the Company's Equipment Proposal or the Customer's related Purchase Order states that it is governed by a Cooperative Purchasing Agreement, "Purchasing Terms and Conditions" shall mean those terms and conditions set forth in the applicable Cooperative Purchasing Agreement.
- j. **"Specifications"** means the general specifications, technical specifications, training, and testing requirements for the Product contained in Company's Equipment Proposal and its Exhibit A (Proposal Option List), prepared in response to Customer's request for such a proposal.

2. Purpose. This Agreement sets forth the terms and conditions of Company's sale of the Product to Customer.
3. Term of Agreement. This Agreement will become effective on the date of Acceptance as defined in Company's Equipment Proposal ("Effective Date") and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon Delivery and payment in full of the Purchase Price.
4. Purchase and Payment. Customer agrees to pay Company the Purchase Price for the Product(s). The Purchase Price is in U.S. dollars. Where Customer opts for a Prepayment Discount that specifies that Customer will tender one or more prepayments to Company, Customer must provide each prepayment within the time frame specified in the Equipment Proposal in order to receive the Prepayment Discount for that prepayment installment. To the extent permitted by applicable law, Company may in its sole discretion charge a convenience fee if Customer elects to pay the Purchase Price by means of a credit card.
5. Representations and Warranties. Customer hereby represents and warrants to Company that the purchase of the Product(s) has been approved by Customer in accordance with applicable general laws and, as applicable, Customer's charter, ordinances and other governing documents, and funding for the purchase has been duly budgeted and appropriated.
6. Cancellation/Termination. In the event this Agreement is cancelled or terminated by Customer before completion, Company may charge Customer a cancellation fee. The following charge schedule is based on costs incurred by

Manufacturer and Company for the Product, which may be applied and charged to Customer: (a) 12% of the Purchase Price after the order for the Product(s) is accepted and entered into Manufacturer's system by Company; (b) 22% of the Purchase Price after completion of approval drawings by Customer, and; (c) 32% of the Purchase Price upon any material requisition made by the Manufacturer for the Product. The cancellation fee will increase in excess of (c) in this Section 6, accordingly, as additional costs are incurred by Manufacturer and Company as the order progresses through engineering and into the manufacturing process.

7. Delivery. The Product is scheduled to be delivered as specified in the Delivery Timing section of the Equipment Proposal ("Delivery Timing"), which will be F.O.B. Company's facility. The Delivery Timing is an estimate, and Company is not bound to such date unless it otherwise agrees in writing. Company is not responsible for Delivery delays caused by or as the result of actions, omissions or conduct of the Manufacturer, its employees, affiliates, suppliers, contractors, and carriers. All right, title and interest in and to the Product, and risk of loss, shall pass to Customer upon Delivery of the Product(s) to Customer.
8. Standard Warranty. The manufacturer warranties applicable to this Agreement, if any, are attached to Company's Equipment Proposal as Exhibit A and are incorporated herein as part of the Agreement.
  - a. Disclaimer. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, COMPANY, INCLUDING ITS PARENT COMPANY, AFFILIATES, SUBSIDIARIES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS PROVIDED UNDER THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING DISCLAIMER, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, IMPLIED WARRANTY AGAINST INFRINGEMENT, AND IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. STATEMENTS MADE BY SALES REPRESENTATIVES OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.
9. Limitation of Liability. COMPANY WILL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, ECONOMIC, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES ARISING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT WITHOUT REGARD TO THE NATURE OF THE CLAIM OR THE UNDERLYING THEORY OR CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, STRICT LIABILITY, EQUITY OR ANY OTHER THEORY OF LAW) ON WHICH SUCH DAMAGES ARE BASED. COMPANY'S LIMIT OF LIABILITY UNDER THIS AGREEMENT SHALL BE CAPPED AT THE TOTAL AMOUNT OF THE MONIES PAID BY CUSTOMER TO COMPANY UNDER THIS AGREEMENT.
10. Force Majeure. Company shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond Company's control or which make Company's performance impracticable, including but not limited to wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, transportation or delivery delays or losses outside of Company's control, any act of government, inability or delay of Company or manufacture in obtaining necessary labor or adequate or suitable manufacturing components at reasonable prices, allocation regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy, terrorism, epidemics, quarantine restrictions, failure of vendors to perform their contracts or labor troubles of Company or a manufacturer causing cessation, slowdown, or interruption of work.
11. Customer's Obligations. Customer shall provide its timely and best efforts to cooperate with Company and Manufacturer during the manufacturing process to create the Product. Reasonable and timely cooperation includes, without limitation, Customer's providing timely information in response to a request from Manufacturer or Company and Customer's participation in traveling to Manufacturer's facility for inspections and approval of the Product.
12. Default. The occurrence of one or more of the following shall constitute a default under this Agreement: (a) Customer's failure to pay any amounts due under this Agreement or Customer's failure to perform any of its obligations under this Agreement; (b) Company's failure to perform any of its obligations under this Agreement;

(c) either party becoming insolvent or becoming subject to bankruptcy or insolvency proceedings; (d) any representation made by either party to induce the other to enter into this Agreement, which is false in any material respect; (e) an action by Customer to dissolve, merge, consolidate or transfer a substantial portion of its property to another entity; or (f) a default or breach by Customer under any other contract or agreement with Company.

13. Manufacturer's Statement of Origin. Company shall retain possession of the manufacturer's statement of origin ("MSO") for the Product until the entire Purchase Price has been paid. If more than one Product is covered by this Agreement, Company shall retain the MSO for each individual Product until the Purchase Price for that Product has been paid in full.
14. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Arbitration shall take place in Bradenton, Florida.
15. Miscellaneous. The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent, or joint venture of or with the other. Neither party may assign its rights and obligations under this Agreement without the prior written approval of the other party. This Agreement and all transactions between Ten-8 Fire & Safety, LLC will be governed by and construed in accordance with the laws of the State of Florida. The delivery of signatures to this Agreement may be via facsimile transmission or other electronic means and shall be binding as original signatures. This Agreement shall constitute the entire agreement and supersede any prior agreement between the parties concerning the subject matter of this Agreement. This Agreement may only be modified by an amendment, in writing, signed by duly authorized representatives of both parties with authority to sign such amendments to this Agreement. In the event of a conflict between the Ten-8 Proposal and these Terms and Conditions, the Ten-8 Proposal shall control except in the case of a Cooperative Purchasing Contract as set forth in Section 1(c) and (i) of these Purchasing Terms and Conditions. If any term of this Agreement is determined to be invalid or unenforceable by a competent legal authority, such term will be either reformed or deleted, as the case may be, but only to the extent necessary to comply with the applicable law, regulation, order or rule, and the remaining provisions of the Agreement will remain in full force and effect.





IN SERVICE TO SERVE YOU

TEN-8 FIRE & SAFETY, LLC  
2904 59TH AVENUE DRIVE EAST  
BRADENTON, FL 34203  
800-228-8368  
941-756-2598

RECEIVED

APR 0 2 2024

CITY OF MARCO ISLAND

INVOICE

Page: 1

Invoice No.: 23216  
Invoice Date: 3/28/2024

BILL

TO: CITY OF MARCO ISLAND  
1280 SAN MARCO ROAD  
MARCO ISLAND, FL 34145

SHIP

TO: CITY OF MARCO ISLAND  
FIRE DEPARTMENT  
1310 SAN MARCO ROAD  
MARCO ISLAND, FL 34145

Tax Ident Type: Legal Entity  
Terms: NET 15 DAYS

Customer ID: MARCO  
P.O. Number  
Our Order No.: 23216  
SalesPerson: ERIC HUOVINEN

Item/Description	Unit	Quantity	Unit Price	Total Price
ONE (1) PIERCE FREIGHTLINER 4x4 PUMPER DOWN PAYMENT		1	212,500.00	212,500.00

JOB # 42639

PER EQUIPMENT PROPOSAL DATED 3/19/2024

CUSTOMER DOWN PAYMENT DUE WITHIN 15 DAYS OF DATE OF INVOICE

Amount Subject to Sales Tax 0  
Amount Exempt from Sales Tax 212,500.00

Subtotal: 212,500.00  
Invoice Discount: 0.00  
Tax: 0.00

Remit To:  
TEN-8 FIRE & SAFETY, LLC  
2904 59TH AVENUE DRIVE EAST  
Bradenton, FL 34203

Total: 212,500.00

All returns must be initiated within 30 days of receipt of product and will be charged a restocking fee. Contact your sales representative to receive a Return Materials Authorization (RMA). Special order parts are not returnable. Full terms and conditions for returns can be found on our website at [www.ten8fire.com/returns](http://www.ten8fire.com/returns).

**From:** [Huovinen, Eric](#)  
**To:** [Chris Byrne](#)  
**Cc:** [Mathew Marshall](#); [Blake Ebben](#)  
**Subject:** Pierce Freightliner 4x4 Pumper - Job #42639  
**Date:** Tuesday, April 2, 2024 1:37:17 PM  
**Attachments:** [image001.png](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Chief Byrne,

Thank You and the City of Marco Island Fire Department for your business and trust in Ten-8 Fire and Safety LLC. and Pierce Manufacturing Inc.

Your Freightliner 4x4 Pumper has been processed with Job #42639 being assigned. Initial dates for prebuild meeting will be the beginning of March 2025 with a completion date of November 2025. I will notify you with any updates.

Thank You Again and Have a Great Day!



**Eric Huovinen**  
**Apparatus Sales Representative | Ten-8 Fire & Safety**  
c: (941) 201-9121 | e: [ehuovinen@ten8fire.com](mailto:ehuovinen@ten8fire.com)  
w: [ten8fire.com](http://ten8fire.com)

**ATTACHMENT 2**

AUDIT REQUIREMENTS FOR AWARDS OF  
STATE AND FEDERAL FINANCIAL ASSISTANCE

The administration of resources awarded by the Department of Financial Services (Department) to the Grantee may be subject to audits and/or monitoring by the Department, as described in this section.

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**MONITORING**

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the Grantee agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Grantee is appropriate, the Grantee agrees to comply with any additional instructions provided by Department staff to the Grantee regarding such audit. The Grantee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

**AUDITS**

**Part I: Federally Funded**

This part is applicable if the Grantee is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A grantee that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through the Department by this agreement. In determining the federal awards expended in its fiscal year, the Grantee shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Grantee conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the Grantee shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A grantee that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Grantee expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Grantee resources obtained from other than federal entities).

**Part II: State Funded**

1. In the event that the Grantee expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Grantee (for fiscal years ending June 30, 2017, or thereafter), the Grantee must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the Grantee shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not

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2. include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
3. For the audit requirements addressed in Part II, paragraph 1, the Grantee shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
4. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, or thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Grantee's resources obtained from other than state entities).

**Part III: Other Audit Requirements**

N/A

**Part IV: Report Submission**

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of the Grantee directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Grantee directly to each of the following:

- a. The Department at each of the following addresses:

Electronic copies (preferred): SFMGrant@myfloridacfo.com

or

Paper (hard copy):  
Ginie Chibuzor  
Department of Financial Services  
200 East Gaines Street  
Tallahassee, Florida 32399-0340

- b. The Auditor General's Office at the following address:

Auditor General  
Local Government Audits/342  
Claude Pepper Building, Room 401  
111 West Madison Street  
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

AUDIT REQUIREMENTS FOR AWARDS OF  
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3. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
4. Grantees, when submitting financial reporting packages to the Department for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Grantee in correspondence accompanying the reporting package.

**Part V: Record Retention**

The Grantee shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of five (5) years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO, or Auditor General access to such records upon request. The Grantee shall ensure that audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by the Department.

AUDIT REQUIREMENTS FOR AWARDS OF  
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**EXHIBIT 1**

**Federal Resources Awarded to the Grantee  
Pursuant to this Agreement Consist of the Following:**

1. Federal Program A:

*N/A*

2. Federal Program B:

*N/A*

**Compliance Requirements Applicable to the Federal Resources  
Awarded Pursuant to this Agreement are as Follows:**

1. Federal Program A:

*N/A*

2. Federal Program B:

*N/A*

**State Resources Awarded to the Grantee  
Pursuant to this Agreement Consist of the Following:**

**Matching Resources for Federal Programs:**

1. Federal Program A:

*N/A*

2. Federal Program B:

*N/A*

**Subject to Section 215.97, F.S.:**

1. State Project A:

State Project: Local Government Fire Service Grants

State Awarding Agency: State of Florida, Department of Financial Services

Catalog of State Financial Assistance Title and Number: Local Government Fire Service Grants,  
43.009

Amount: \$212,500.00

2. State Project B:

*N/A*

**Compliance Requirements Applicable to State Resources Awarded  
Pursuant to this Agreement Are as Follows:**

The compliance requirements are as stated in Grant Agreement FM907 between the Grantee and the Department, entered in State Fiscal Year 2023-2024.

**Attachment 3**  
**Index of Applicable Laws and Regulations**

1. Statutory Requirements:

Chapter 112, F.S. (conflict of interest)  
Chapter 119, F.S. (public records and exceptions to disclosure)  
Sections 11.062 and 216.347, F.S. (prohibitions on the use of state funds for lobbying purposes)  
Section 216.1366, F.S. (inspection of records)  
Section 286.101, F.S. (foreign gifts and contracts)  
Section 286.25, F.S. (sponsorship)  
Section 287.133, F.S. (convicted vendor list)  
Section 287.134, F.S. (discriminatory vendor list)  
Section 287.137, F.S. (antitrust violator vendor list)  
Americans with Disabilities Act  
Immigration and Nationality Act

2. Audit Requirements:

Section 20.055, F.S. (audit investigations)  
Section 215.34, F.S. (return or recoupment of funds)  
Section 215.97, F.S., Florida Single Audit Act  
Section 215.971, F.S., Agreements Funded with Federal or State Assistance

3. Financial Requirements:

Section 215.422, F.S. (payments from state funds)  
Section 273.02, F.S. (nonexpendable tangible personal property)  
Section 287.05805, F.S. (if funding is used for real property purchase or improvement)  
Section 287.0585, F.S. (payments to subcontractors)  
Rule 60A-1.031, F.A.C. (MyFloridaMarketPlace)  
Chief Financial Officer Memoranda Nos. 1, 2, and 4 (effective July 1, 2020)





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Attachment 4 - Status Update Request Form

Instructions: This form is to be completed by the grantee 6 months after the award date, regardless of grant agreement status. If you are also requesting reimbursement, please complete the reimbursement request form (Attachment 5) and attach the required documentation.

<b>Grantee:</b>	<b>Reporting Date:</b>	<b>Contract Number:</b>
<b>Equipment Purchase Description:</b>		
<b>1. Phases Complete (Check)</b>		
Procurement of Vendor <input type="checkbox"/>	Equipment Order <input type="checkbox"/>	Equipment Purchased <input type="checkbox"/>
Grant Execution <input type="checkbox"/>	Reimbursement <input type="checkbox"/>	Equipment Delivery <input type="checkbox"/>
<b>2. Has the Grant Agreement been executed? If not, why?</b>		
<b>3. When do you expect to have all phases complete?</b>		
<b>4. Problem Areas/Other Comments (Revisions, Delays, Difficulties, etc):</b>		
<b>Grantee</b>	<b>Grantee Representative</b>	
	I certify that the information provided above is true and correct per the terms of the Grant Agreement.	
	<b>Date</b>	<b>Printed Name/Title</b>
	<b>Signature</b>	
<b>Department</b>	<b>Comments/Notes</b>	
	<b>Review Date</b>	<b>Site Visit</b> <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
	<b>Contract Manager Signature</b>	

FOR REFERENCE ONLY  
DO NOT USE



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 FLORIDA DEPARTMENT OF FINANCIAL SERVICES



**Grant Agreement**

**Attachment 5 – Reimbursement Request Letter**

I, \_\_\_\_\_, on behalf of  
 (Print name of Grantee’s Grant Manager)

\_\_\_\_\_, do hereby certify for  
 (Print name of Grantee)

Contract No. \_\_\_\_\_ and Reimbursement Request No. \_\_\_\_\_ that:

- 1) The costs being claimed on this request are specifically for the Project represented to the State in the budget appropriation.
- 2) The costs being claimed on this request are for one or more Deliverables listed in Section 4, Deliverables, in the Scope of Work.
- 3) The Grantee has paid such costs under the terms and provisions of contracts relating directly to the Project.
- 4) The costs being claimed on this request were incurred after the date specified in Section C, Performance Period, of the Agreement document, and prior to the end of the Performance Period.
- 5) A duplicate invoice for the same services, supplies, materials, and/or labor set forth in the attached invoice has not been submitted, and will not be submitted, to another funding source for this Project.

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\_\_\_\_\_  
 Signature of Grantee's Grant Manager

\_\_\_\_\_  
 Print Name



DIVISION OF  
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**Reimbursement Detail**

<b>Request #</b>	<b>Grantee:</b>	
<b>Submit Date:</b>	<b>Grantee Address:</b>	
<b>Contract #</b>	<b>Grantee Contact:</b>	
<b>Deliverable:</b>		

Vendor	Invoice #	Invoice Date	Invoice Description	Reimbursement Requested
			Request Total	\$
			Total Previous Payments	\$
			Total Grant Amount	\$
			<i>Remaining Funds</i>	\$

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Grantee Certification: Sign here and complete Page 1 to certify that the amount being requested for reimbursement is true and valid in accordance with the Agreement.

**Grantee Signature  
& Date:**

**SFM Use**

Contract Manager  
Receipt:

Component Checklist:	Vendor Invoice(s)	Payment	Tasks Performed	Funds Reconciled
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**DEPARTMENT OF FINANCIAL SERVICES**  
**Public Records Requirements**

**Addendum A**

**1. Public Records Access Requirements.**

- a. If the Contractor is acting on behalf of the Department in its performance of services under the Contract, the Contractor must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Contractor in conjunction with the Contract (Public Records), unless the Public Records are exempt from public access pursuant to section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Contract if the Contractor refuses to allow public access to Public Records as required by law.

**2. Public Records Requirements Applicable to All Contractors.**

- a. For purposes of the Contract, the Contractor is responsible for becoming familiar with Florida's Public Records law, consisting of chapter 119, F.S., section 24(a) of Article I of the Florida Constitution, or other applicable state or federal law (Public Records Law).
- b. All requests to inspect or copy Public Records relating to the Contract must be made directly to the Department. Notwithstanding any provisions to the contrary, disclosure of any records made or received by the State in conjunction with the Contract is governed by Public Records Law.
- c. If the Contractor has a reasonable, legal basis to assert that any portion of any records submitted to the Department is confidential, proprietary, trade secret, or otherwise not subject to disclosure ("Confidential" or "Trade Secret") under Public Records Law or other legal authority, the Contractor must simultaneously provide the Department with a separate redacted copy of the records the Contractor claims as Confidential or Trade Secret and briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption. The un-redacted copy of the records must contain the Contract name and number and must be clearly labeled "Confidential" or "Trade Secret." The redacted copy of the records should only redact those portions of the records that the Contractor claims are Confidential or Trade Secret. If the Contractor fails to submit a redacted copy of records it claims are Confidential or Trade Secret, such action may constitute a waiver of any claim of confidentiality.
- d. If the Department receives a Public Records request, and if records that have been marked as "Confidential" or "Trade Secret" are responsive to such request, the Department will provide the Contractor-redacted copies to the requester. If a requester asserts a right to the portions of records claimed as Confidential or Trade Secret, the Department will notify the Contractor that such an assertion has been made. It is the Contractor's responsibility to assert that the portions of records in question are exempt from disclosure under Public Records Law or other legal authority. If the Department becomes subject to a demand for discovery or disclosure of the portions of records the Contractor claims as Confidential or Trade Secret in a legal proceeding, the Department will give the Contractor prompt notice of the demand, when possible, prior to releasing the portions of records the Contractor claims as Confidential or Trade Secret (unless disclosure is otherwise prohibited by applicable law). The Contractor shall be responsible for defending its determination that the redacted portions of its records are Confidential or Trade Secret. No right or remedy for damages against the Department arises from any disclosure made by the Department based on the Contractor's failure to promptly legally protect its claim of exemption and commence such protective actions within ten days of receipt of such notice from the Department.
- e. If the Contractor claims that the records are "Trade Secret" pursuant to section 624.4213, F.S., and all the requirements of section 624.4213(1), F.S., are met, the Department will respond to the Public Records Request in accordance with the provisions specified in that statute.
- f. The Contractor shall ensure that exempt or confidential and exempt Public Records are not disclosed except as permitted by the Contract or by Public Records Law.

**Addendum A**

**3. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.**

If the Contractor is a “contractor” as defined in section 119.0701(1)(a), F.S., the Contractor shall:

- a. Keep and maintain Public Records required by the Department to perform the service.
- b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, F.S., or as otherwise provided by law.
- c. 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 the Contract term and following completion of the Contract if the Contractor does not transfer the Public Records to the Department.
- d. Upon completion of the Contract, transfer, at no cost, to the Department all Public Records in possession of the Contractor or keep and maintain Public Records required by the Department to perform the service. If the Contractor transfers all Public Records to the Department upon completion of the Contract, 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 Contract, the Contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department’s custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the Contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the Contractor is authorized to access.
- e. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT PUBLIC RECORDS AT:**

**Telephone: (850) 413-3149**  
**Email: [PublicRecordsRequest@myfloridacfo.com](mailto:PublicRecordsRequest@myfloridacfo.com)**  
**Mailing Address: The Department of Financial Services**  
**Office of Open Government**  
**PL-11, The Capitol**  
**Tallahassee, Florida 32399-0301**

A Contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.