

REQUEST FOR LEGAL SERVICES

To: County Attorney's Office
Attention: Noah Milov

From: Mark Kithcart, Drawer No. PW05

Dept: Facilities Management Ext. 5514

Date: 09/16/2024

Request (in detail): _____

Review Grant Agreement TJ004 with the Florida Department of Law Enforcement and Polk County.

- No Changes/modifications suggested. - N. M.

Please indicate any time limits involved and attach all necessary documentation.

For County Attorney office use only:

Assign to: Noah Milov

Date: 9/16/2024

County Attorney Project No.: 2024-542

Logged out: _____

**Agreement for State Financial Assistance Between
Florida Department of Law Enforcement
and
Polk County Board of County Commissioners**

AWARD AGREEMENT

Award Number: TJ004
Project Title: Polk County Sheriff's Office County Jail Improvements
Project Period: 07/01/2024 – 06/30/2025
Awarded Funds: \$2,050,000.00
FLAIR Vendor ID: 596000809
CSFA Catalog Number: 71.150

This agreement is entered into by and between the Department of Law Enforcement (herein referred to as "FDLE" or "Department") and Polk County Board of County Commissioners (herein referred to as "Recipient"); and

WHEREAS, the Department has authority pursuant to Florida law and does hereby agree to provide state financial assistance to the Recipient in accordance with the terms and conditions set forth in this agreement; and

WHEREAS the Department has available funds resulting from a single, non-recurring appropriation in The General Appropriations Act, 2024 Legislature, Section 4, Specific Appropriation 1297A, Grants and Aids-Special Projects, intended to be provided to the Recipient as reimbursement of eligible costs resulting from allowable activities as defined in the agreement, and

WHEREAS, the Recipient represents that it is fully qualified, possesses the requisite skills, knowledge, qualifications and experience to carry out the state project identified herein, and does offer to perform such services.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

The General Appropriations Act contains the following proviso language and provides information on the legislative intent for the use of these funds:

From the funds in Specific Appropriation 1297A, \$2,050,000.00 in nonrecurring capital outlay funds is provided to Polk County Board of County Commissioners for the Polk County Sheriff's Office County Jail Improvements project.

This award is subject to the special conditions outlined in **Appendix A** and all applicable standard conditions in **Appendix D**.

Schedule of Appendices

Appendix A – Special Conditions
Appendix B – Project Deliverables
Appendix C – Approved Budget
Appendix D – Standard Conditions

Scope of Work

Award funds will be used for the design, removal, and replacement of outdated jail cell doors at the Central County Jail Facility in Polk County. These door replacements will provide continued safety for law enforcement officers that work at this facility.

Funds will be used to support the costs outlined in **Appendix C**.

Performance and Financial Reporting

The Recipient shall provide **Monthly Fixed Capital Outlay (FCO) Project Activity Reimbursement Report (ARR)** to the Department attesting to the progress made towards project deliverables (**Appendix B**) and to the costs incurred during the reporting period. These reports are due no later than 30 days after the end of each reporting period. For example: If the monthly reporting period is October 1-31, the report is due no later than November 30th. Failure to submit reports by the deadline will delay reimbursement of funds.

If a project is not operational within 60 days of the original start date of the award period, the Recipient must report by letter to the Department the steps taken to initiate the project, the reasons for delay, and the expected start date. If a project is not operational within 90 days of the original start date of the award period, the Recipient must submit a second statement to the Department explaining the implementation delay. Upon receipt of the 90-day letter, the Department shall determine if the reason for delay is justified or shall, at its discretion, require additional project documentation and justifications throughout the award period.

Performance Reporting: Tab 1 of the FCO Project Activity Reimbursement Report must contain a detailed summary of the activities performed during the reporting period, any barriers or difficulties encountered, planned activities for the next reporting period, an estimate of total expenditures for the next three months, and an indicator of if the project end date will need to be extended at that time.

Additional supporting documentation for performance must be maintained by Recipient and made available upon request for monitoring purposes. Examples of additional supporting documentation include but are not limited to: timesheets, case notes, logs, purchase orders, trainings, contractor performance reports, punch lists, etc.

Payment Requests: The remaining tabs of the FCO Project Activity Reimbursement Report will serve as the Payment Request. Each category that funds are being reimbursed under must contain: a description of the item/service, the quantity and unit cost, the date costs were incurred, the method of payment (check, credit card, EFT, etc.), and the total amount requested for reimbursement. All payment requests will be reviewed by the Department's grant manager and may be audited to the satisfaction of the Department and/or the Florida Department of Financial Services. If no expenses were incurred during the reporting period, only Tab 1 must be completed and submitted by the monthly reporting deadline.

Additional supporting documentation for all funds expended and received under this agreement must be maintained by the Recipient and made available upon request for monitoring purposes. Examples of additional supporting documentation include but are not limited to: requisitions, purchase orders, quotes, general ledgers, activity reports, contractual agreements, etc.

Payments

The State of Florida's performance and obligation to pay under this agreement is contingent upon an appropriation by the Legislature, availability of funds, and subject to any modification in accordance with Chapter 216, Florida Statutes or the Florida Constitution. The Department will administer and disburse funds under this agreement in accordance with sections 215.97, 215.971, 215.981 and 215.985, F.S. Expenditures of state financial assistance shall be compliant with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures published by the Florida Department of Financial Services. All expenditures shall be allowable, reasonable,

and necessary for the success of the award project. The Department's determination of acceptable expenditures shall be conclusive.

Award funds will be distributed on a cost-reimbursement basis for satisfactory performance of eligible activities. Payments will be processed in conjunction with receipt and review of supporting documentation to determine successful completion of minimum performance deliverables and to verify cost elements as specified in the approved budget (**Appendix C**). All Payment Requests must be certified by the Recipient's Chief Financial Officer (or financial designee) and include a statement that costs claimed are incurred in accordance with the agreement.

The final Payment Request shall be submitted to the Department no later than **July 31, 2025**. Any payment due under the terms of this agreement may be withheld until all required reports are received, and necessary adjustments have been approved by the Department. Final reconciliation and closeout of the agreement must be completed by both parties within forty-five (45) days of the end of the grant period.

Failure to comply with these provisions shall result in forfeiture of reimbursement and/or a refund of any advanced funding.

Administration

Changes to the following points of contact and chief officials below must be submitted to FDLE Office of Criminal Justice Grants in writing.

Recipient Grant Manager

Name: Mark Kithcart
Title: Maintenance Manager
Address: 2160 Marshall Edwards Drive
Bartow, FL 33830
Phone: 863-534-5511
Email: markkithcart@polk-county.net

Recipient Chief Official

Name: W.C. Braswell
Title: County Commissioner Board Chair
Address: 330 West Church Street
Bartow, FL 33830
Phone: 863-534-6000
Email: BillBraswell@polk-county.net

Recipient Chief Financial Officer

Name: Stacy M. Butterfield, CPA
Title: Clerk of Court & Comptroller
Address: 255 North Broadway Avenue
Bartow, FL 33830
Phone: 863-534-4000
Email: stacybutterfield@polk-county.net

Florida Department of Law Enforcement (FDLE) Grant Manager

Name: Ryan Derrick
Title: Government Analyst II
Address: P.O. Box 1489
Tallahassee, FL 32302-1489
Phone: 850-617-1271
Email: RyanDerrick@fdle.state.fl.us

Award Signatures

In witness whereof, the parties affirm they each have read and agree to the conditions set forth in this agreement, have read and understand the agreement in its entirety and have executed this agreement by their duly authorized officers on the date, month and year set out below.

Modifications to this page, including strikeouts, whiteout, etc. are not permitted.

**Florida Department of Law Enforcement
Office of Criminal Justice Grants**

Signature: _____

Typed Name and Title: Cody Menacof, Bureau Chief

Date: _____

**Recipient
Polk County Board of County Commissioners**

Signature: _____

Typed Name and Title: W.C. Braswell, County Commissioner Board Chair

Date: _____

***** If using a designee, sign the Chief Official Designee section below*****

Recipient Chief Official Designee (if applicable)

Signature: _____

Typed Name and Title: _____

Date: _____

Additional Recipient Signatures (if applicable)

Signature: _____

Typed Name and Title: _____

Date: _____

Signature: _____

Typed Name and Title: _____

Date: _____

Appendix A - Special Conditions

Award Number: TJ004
Recipient: Polk County Board of County Commissioners
Project Title: Polk County Sheriff's Office County Jail Improvements
Project Period: 07/01/2024 – 06/30/2025

In addition to the attached standard conditions, the above-referenced grant project is subject to the special conditions set forth below.

- W0001 WITHHOLDING OF FUNDS: Prior to the drawdown of funds for Construction, the Recipient must submit a copy of all third-party subcontracts related to the agreement and must address the requirements identified in 215.97(7)(a) and (d), Florida Statutes.
- W0002 WITHHOLDING OF FUNDS: Prior to the drawdown of funds for Construction, the Recipient must submit a completed DFS-A2-NS (Recipient/Subrecipient vs. Vendor Determination) form for each third-party contracted with during the project period.
- W0003 WITHHOLDING OF FUNDS: Prior to the drawdown of funds for Construction, the Recipient must amend the budget to provide details of activities and associated costs.
- W0004 WITHHOLDING OF FUNDS: Prior to the drawdown of funds for consultants/contracts, the Recipient must submit a copy of all third-party subcontracts related to the agreement and must address the requirements identified in 215.97(7)(a) and (d), Florida Statutes.
- W0005 WITHHOLDING OF FUNDS: Prior to the drawdown of funds for consultants/contracts, the Recipient must submit a completed DFS-A2-NS (Recipient/Subrecipient vs. Vendor Determination) form for each third-party contracted with during the project period.
- W0006 WITHHOLDING OF FUNDS: Prior to the drawdown of funds for Consultants/Contracts, the Recipient must amend the budget to provide details of activities and associated costs.

Appendix B - Project Deliverables

Award Number: TJ004
Recipient: Polk County Board of County Commissioners
Project Title: Polk County Sheriff's Office County Jail Improvements
Project Period: 07/01/2024 – 06/30/2025

Total payments for all deliverables will not exceed the maximum grant award amount.

Deliverable 1	The recipient will use funds to procure licensed professionals to design and develop plans for the jail facility in Polk County, as well as the construction necessary to remove and replace the cell doors.
Minimum Performance Criteria:	Completion of progress with at least one activity described in the Scope of Work. Documentation includes an attestation of activities or services rendered through the submission of the payment request.
Financial Consequences:	This is a cost reimbursement deliverable. Only allowable activities completed as attested through the submission of the payment request will be eligible for payment.
Deliverable Price:	Total payments for this deliverable will be approximately \$2,050,000.00

Appendix C - Budget Details

Award Number: TJ004
Recipient: Polk County Board of County Commissioners
Project Title: Polk County Sheriff's Office County Jail Improvements
Project Period: 07/01/2024 – 06/30/2025

Budget Category	Total
Equipment (OCO)	\$0.00
Supplies	\$0.00
Construction	\$2,007,000.00
Consultants/Contracts	\$43,000.00
Other Costs	\$0.00
TOTAL	\$2,050,000.00

Standard Budget Terms

All items, quantities, and/or prices below are estimates based on the information available at the time of application or amendment.

The item(s) below may include additional individually priced, operationally necessary accessories, components, and/or peripherals and may be categorized as a "kit", "bundle", "system", etc.

Award funds may be used to pay for applicable shipping, freight, and/or installation costs.

Construction

Cell Doors (\$2,007,000.00): Award funds will be used to procure a contractor to remove and replace the cell doors at the Central County Jail Facility in Polk County.

**** contingent activities and cost breakdown are TBD until construction estimates and analysis is conducted. Polk County Board of County Commissioners will submit a budget amendment to detail these costs once more information is known. ****

The Recipient shall provide procurement documentation (quotes, purchase orders, etc.), invoice, proof of payment (cancelled check, bank/card statements, etc.) with each payment request to substantiate costs charged to the grant.

Consultants/Contracts

Architectural/Engineering Design Services (\$43,000.00): Award funds will be used to procure professional services to develop detailed plans for the Central County Jail Facility in Polk County.

**** contingent activities and cost breakdown are TBD until consultant/contract estimates and analysis is conducted. Polk County Board of County Commissioners will submit a budget amendment to detail these costs once more information is known. ****

The Recipient shall provide procurement documentation (quotes, purchase orders, etc.), invoice, proof of payment (cancelled check, bank/card statements, etc.) with each payment request to substantiate costs charged to the grant.

Appendix D - Fiscal Year 2024-2025 State Financial Assistance Standard Conditions

The following terms and conditions will be binding upon approval of the grant award and execution of the contract by both the Recipient and the Florida Department of Law Enforcement. The Recipient will maintain required registrations and certifications for eligibility under this program.

The Department and the Recipient agree that they do not contemplate the development, transfer or receipt of intellectual property as a part of this agreement.

SECTION I: PROJECT IMPLEMENTATION

Legal Authority: The Recipient certifies with respect to this agreement that it possesses the legal authority to receive the funds to be provided under this agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this agreement.

Not Operational within 60 and 90 Days: If a project is not operational within 60 days of the original start date of the award period, the Recipient must report by letter to the Department the steps taken to initiate the project, the reasons for delay, and the expected start date. If a project is not operational within 90 days of the original start date of the award period, the Recipient must submit a second statement to the Department explaining the implementation delay. Upon receipt of the 90-day letter, the Department shall determine if the reason for delay is justified or shall, at its discretion, require additional project documentation and justifications throughout the award period. The Department will also require the Recipient provide a revised project timeline that includes all anticipated project activities, tasks, and estimated completion date(s).

SECTION II: PAYMENTS

Obligation to Pay: The State of Florida's obligation to pay under this agreement is contingent upon an appropriation by the Legislature.

Overpayments: Any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the agreement must be refunded to the Department. Any balance of unobligated cash that has been paid and has not been authorized to be retained for direct program costs in a subsequent period must be refunded to the Department.

Advance Funding: Advance funding may be provided to a subrecipient upon completion and submission of a Cash Advance Request form to the Department. The request must be signed by the Chief Financial Officer or the Chief Financial Officer designee. Advance funding should be requested only when the Subrecipient has an imminent and specific need to expend project funds. Cash advances must be spent on project costs within 30 days of receipt. Should extenuating circumstances arise which prevent the expenditure of advance funds within 30 days of receipt, a written request to retain the funds must be provided by the recipient and approved by the Department. An expenditure claim for advance funding must be submitted to the Department within 45 days of advance funding receipt.

SECTION III: PROJECT AND GRANT MANAGEMENT

Personnel Changes: The recipient must notify the FDLE grant manager of any change in the Chief Officials or Project Director or any change in contact information, including mailing address, phone number, email, or title change.

Obligation of Grant Funds: Grant funds shall not under any circumstances be obligated prior to the effective date, or subsequent to the termination date, of the period of performance. Only project costs incurred on or after the effective date, and on or prior to the termination date of the Recipient's project are

eligible for reimbursement. All payments must be completed within thirty (30) days of the end of the grant period of performance.

Financial Management: The Recipient must have a financial management system able to record and report on the receipt, obligation, and expenditure of grant funds. An adequate accounting system must be able to separately track receipts, expenditures, assets, and liabilities for awards, programs, and subrecipients. The Recipient shall maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices. Recipient must have written procedures for procurement transactions.

Travel: Cost for travel shall be reimbursed at the Recipient's travel rate, but the maximum reimbursement for each type of travel cost shall not exceed rates established in State of Florida Travel Guidelines, §112.061, F.S.

Subcontracts: Recipient agrees that all employees, subcontractors, or agents performing work under the agreement shall be properly trained individuals who meet or exceed any specified training qualifications. Recipient agrees to be responsible for all work performance and all expenses incurred in fulfilling the obligations of this agreement, and will not assign the responsibility for this agreement to another party. If the Recipient subcontracts any or all of the work required under this agreement, the Recipient must provide a completed DFS-A2-NS (Recipient-Subrecipient vs. Vendor Determination) form and a copy of the executed subcontract within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this agreement, to the extent allowed and required by law.

Grant Adjustments: Recipients must submit a Request for Grant Adjustment to the FDLE grant manager for substantive changes such as: scope modifications, changes to project activities, target populations, service providers, implementation schedules, project director, designs or research plans set forth in the approved agreement, and for any budget changes affecting a cost category that was not included in the original budget. Recipients may transfer up to 10% of the total budget between current, approved budget categories without prior approval, as long as the funds are transferred to an existing line item. Adjustments are required when there will be a transfer of 10% or more of the total budget between budget categories. Under no circumstances can transfers of funds increase the total award. Requests for changes to the grant agreement must be signed by the Recipient or Implementing Agency's chief official or the chief official's designee. All requests for changes must be submitted no later than thirty (30) days prior to grant expiration date.

Property Management: The Recipient shall establish and administer a system to protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement.

SECTION IV: MANDATORY DISCLOSURES

Conflict of Interest: The Recipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Recipients must disclose in writing any potential conflict of interest to the Department.

Violations of Criminal Law: The Recipient must disclose all violations of state or federal criminal law involving fraud, bribery or gratuity violations potentially affecting the grant award.

Convicted Vendors: The Recipient shall disclose to the Department if it, or any of its affiliates, as defined in §287.133(1)(a) F.S., is on the convicted vendor list. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any activities listed in the agreement for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

Vendors on Scrutinized Companies Lists: If this agreement is in the amount of \$1 million or more, Recipient certifies upon executing this agreement, that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to §215.473, F.S., or engaged in business operations in Cuba or Syria. In the event that federal law ceases to authorize the states to adopt and enforce the contracting prohibition identified herein, this provision shall be null and void.

Discriminatory Vendors: The Recipient shall disclose to the Department if it or any of its affiliates, as defined by §287.134(1)(a), F.S. appears on the discriminatory vendors list. An entity or affiliate placed on the discriminatory vendor list pursuant to §287.134, F.S. may not a) submit a bid, proposal, or reply on a contract or agreement to provide any goods or services to a public entity; b) submit a bid, proposal, or reply on a contract or agreement with a public entity for the construction or repair of a public building or public work; c) submit bids, proposals, or replies on leases of real property to a public entity; d) be awarded or perform work as a contractor, subcontractor, Recipient, supplier, subrecipient, or consultant under a contract or agreement with any public entity; or e) transact business with any public entity.

Reporting Potential Fraud, Waste, Abuse, and Similar Misconduct: The Recipient must promptly refer to the Department of Law Enforcement, Office of Criminal Justice Grants any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has either 1) submitted a claim for grant funds that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds.

Non-Disclosure Agreements: Restrictions and certifications regarding non-disclosure agreements and related matters Recipients or contracts/subcontracts under this award may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits, restricts or purports to prohibit or restrict, the reporting of waste, fraud or abuse in accordance with law, to an investigative or law enforcement representative of a state or federal department or agency authorized to receive such information. The Recipient certifies that if informed or notified of any subrecipient, or contractor/subcontractor has been requiring their employees to execute agreements or statements that prohibit the reporting of fraud, waste, or abuse that it will immediately cease all further obligations of award funds to the entity and will immediately notify the Department. The Recipient will not resume obligations until expressly authorized to do so from the Department.

SECTION V: COMPLIANCE WITH STATUTES, RULES, AND REGULATIONS

In performing its obligations under this agreement, the Recipient shall without exception be aware of and comply with all State and Federal laws, rules and regulations relating to its performance under this agreement as they may be enacted or amended from time-to-time, as well as any court or administrative order, judgment, settlement or compliance agreement involving the Department which by its nature affects the services provided under this agreement. The following are examples of rules and regulations that govern Recipient's performance under this agreement.

Lobbying Prohibited: The Recipient shall comply with the provisions of 11.062 and 216.347, F.S., which prohibit the expenditure of funds for the purpose of lobbying the Legislature, judicial branch, or a State agency. No funds or other resources received from the Department in connection with this agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

State of Florida E.O. 20-44: Public-Private Partnerships: Any entity named in statute with which the agency must form a sole-source, public-private agreement; and any nongovernmental Recipient receiving 50% or more of their annual budget from any combination of state or federal funding must submit an annual report to the Office of Criminal Justice Grants. The report must include the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. In addition, the Recipient must agree through

appropriate contract or grant agreement amendment to inform the agency of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Recipient.

Civil Rights: The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.) and shall not discriminate against any employee (or applicant for employment) in the performance of this agreement because of race, color, religion, sex, national origin, disability, age, or marital status. These requirements shall apply to all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to clients or employees in connection with its programs and activities.

E-Verify: The Department shall consider the employment by any contractor of unauthorized aliens a violation of section 274(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this contract. Pursuant to F.S. 448.095, the Contracting Party and any subcontractors are required to register with and use the E-Verify system operated by the U.S. Department of Homeland Security beginning on January 1, 2021. The Contracting Party and any subcontractors are prohibited from entering into contracts with one another unless all parties register and use the E-Verify system. Subcontractors who enter into contracts with the Contracting Party are required to provide a certification that the subcontractor does not employ or use unauthorized aliens as defined in the statute, a copy of which the Contracting Party must maintain. The Contracting Party and any subcontractors are required to terminate a contract if a party has a good faith belief that another party is in violation of F.S. 448.09(1), prohibiting the employment of unauthorized aliens. If a public employer has a good faith belief that the subcontractor has violated these requirements, but that the Contracting Party has otherwise complied, the public employer must notify the Contracting Party to terminate its contract with the subcontractor. A party may challenge a contract termination in accordance with these requirements. A penalized Contractor is prohibited from obtaining another contract with a public employer for at least one year.

Background Check: Whenever a background screening for employment or a background security check is required by law for employment, unless otherwise provided by law, the provisions of Chapter 435 F.S., shall apply. All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of the subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile record checks through the Florida Department of Law Enforcement, and federal criminal record checks through the Federal Bureau of Investigation, and may include local criminal record checks through local law enforcement agencies.

Public Records: As required by 287.058(1)(c), F.S., the Recipient shall allow public access to all documents, papers, letters, or other public records as defined in 119.011(12), F.S. as prescribed by 119.07(1) F.S., made or received by the Recipient in conjunction with this agreement, except public records which are made confidential by law must be protected from disclosure. It is expressly understood that the Recipient's failure to comply with this provision shall constitute an immediate breach of contract, for which the Department may unilaterally terminate this agreement.

Independent Contractor, Subcontracting and Assignments: In performing its obligations under this agreement, the Recipient shall at all times be acting in the capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida. Neither the Recipient nor any of its agents, employees, subcontractors or assignees shall represent to others that it is an agent of or has the authority to bind the Department by virtue of this agreement, unless specifically authorized in writing to do so.

Timely Payment of Subcontractors: To the extent that a subcontract provides for payment after Recipient's receipt of payment from the Department, the Recipient shall make payments to any subcontractor within 7 working days after receipt of full or partial payments from the Department in accordance with §287.0585, F.S., unless otherwise stated in the agreement between the Recipient and subcontractor. Failure to pay within seven (7) working days will result in a penalty that shall be charged

against the Recipient and paid by the Recipient to the subcontractor in the amount of one-half of one percent (.005) of the amount due per day from the expiration of the period allowed for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15%) percent of the outstanding balance due.

Notice of Legal Actions: The Recipient shall notify the Department of potential or actual legal actions taken against the Recipient related to services provided through this agreement or that may impact the Recipient's ability to complete the deliverables outlined herein, or that may adversely impact the Department. The Department's Grant Manager will be notified within 10 days of Recipient becoming aware of such actions or potential actions or from the day of the legal filing, whichever comes first.

Property: In accordance with 287.05805, F.S., any State funds provided for the purchase of or improvements to real property are contingent upon the Recipient granting to the State a security interest in the property at least to the amount of the State funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law.

SECTION VI: RECORDS, AUDITS, AND INFORMATION SECURITY

Records Retention: Retention of all financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this agreement shall be maintained by the Recipient during the term of this agreement and retained for a period of five (5) years after completion of the agreement or longer when required by law. In the event an audit is required under this agreement, records shall be retained for a minimum period of five years after the audit report is issued or until resolution of any audit findings or litigation based on the terms of this agreement, at no additional cost to the Department. Upon demand, at no additional cost to the Department, the Recipient will facilitate the duplication and transfer of any records or documents during the term of this agreement and the required five (5) year retention period. No record may be withheld, nor may the Recipient attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record. These records shall be made available at all reasonable times for inspection, review, copying, or audit by State, or other personnel duly authorized by the Department.

Records Inspection: Pursuant to Section 216.1366, F.S., in order to preserve the interest of the state in the prudent expenditure of state funds, the Department shall be authorized to inspect the (a) Financial records, papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of state funds, and (b) Programmatic records, papers, and documents of the Contractor which the Department determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department within ten (10) business days after the request is made.

Monitoring: The Recipient agrees to comply with the Department's grant monitoring guidelines, protocols, and procedures; and to cooperate with the Department on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, site visits, and/or Florida Department of Financial Services contract reviews and Expanded Audits of Payment (EAP). The Recipient agrees to provide the Department all documentation necessary to complete monitoring of the award and verify expenditures in accordance with 215.971, F.S. Further, the Recipient agrees to abide by reasonable deadlines set by the Department for providing requested documents. Failure to cooperate with grant monitoring activities may result in sanctions affecting the Recipient's award, including, but not limited to: withholding and/or other restrictions on the Recipient's access to funds, and/or referral to the Office of the Inspector General for audit review.

Florida Single Audit Act (FSAA): The Recipient shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (§20.055, F.S.). In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year, the Recipient must have a single audit or project-specific

audit in accordance with §215.97, F.S., §218.39, F.S., and the applicable rules of the Department of Financial Services and the Auditor General. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Law Enforcement, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements. The schedule of expenditures should disclose the expenditures by contract/agreement number for each contract with the Department in effect during the audit period. All questioned costs and liabilities due the Department shall be fully disclosed in the audit report package with reference to the specific contract number. If the Recipient expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of 215.97, F.S., is not required. In the event that the Recipient 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 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities). Pursuant to 215.97(8), F.S., state agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with §215.97, F.S. In such an event, the state awarding agency must arrange for funding the full cost of such additional audits. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted within nine (9) months after the end of the Recipient's fiscal year or within 30 days of the Recipient's receipt of the audit report, whichever occurs first, unless otherwise required by Florida Statutes. Copies of financial reporting packages required by this agreement shall be submitted by or on behalf of the Recipient directly to each of the following:

The Department of Law Enforcement:
Florida Department of Law Enforcement
Office of Criminal Justice Grants
ATTN: State Financial Assistance
Post Office Box 1489 Tallahassee, Florida 32302-1489

The Auditor General's Office at:
Auditor General's Office, Room 401
Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Criminal Justice Information Data Security: Acceptance of this award, constitutes understanding that transmission of Criminal Justice Information (CJI) between locations must be encrypted to conform to the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy.

Recipient's Confidential and Exempt Information: By executing this agreement, the Recipient acknowledges that any information not marked as "confidential" or "exempt" will be posted by the Department on the public website maintained by the Department of Financial Services pursuant to 215.985, F.S. The Recipient agrees that, upon written request of the Department, it shall promptly provide to the Department a written statement of the basis for the exemption applicable to each provision identified by the Recipient as "confidential" or "exempt", including the statutory citation to an exemption created or afforded by statute, and state with particularity the reasons for the conclusion that the provision is exempt or confidential. Any claim by Recipient of trade secret (proprietary) confidentiality for any information contained in Recipient's documents (reports, deliverables or work papers, etc., in paper or electronic form) submitted to the Department in connection with this agreement cannot be waived, unless the claimed confidential information is submitted in accordance with the following two paragraphs.

The Recipient must clearly label any portion of the documents, data, or records submitted that it considers exempt from public inspection or disclosure pursuant to Florida's Public Records Law as trade secret. The labeling will include a justification citing specific statutes and facts that authorize exemption of the information from public disclosure. If different exemptions are claimed to be

applicable to different portions of the protected information, the Recipient shall include information correlating the nature of the claims to the particular protected information.

The Department, when required to comply with a public records request including documents submitted by the Recipient, may require the Recipient to expeditiously submit redacted copies of documents marked as trade secret in accordance with this section. Accompanying the submission shall be an updated version of the justification, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that are claimed to be trade secret. If the Recipient fails to promptly submit a redacted copy, the Department is authorized to produce the records sought without any redaction of proprietary or trade secret information.

SECTION VII: PENALTIES, TERMINATION, DISPUTE RESOLUTION, AND LIABILITY

Financial Penalties for Failure to Take Corrective Action: Corrective action plans may be required for noncompliance, nonperformance, or unacceptable performance under this agreement. Penalties may be imposed for failures to implement or to make acceptable progress on such corrective action plans.

Termination: The Department reserves the right to unilaterally cancel this agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Recipient in conjunction with this agreement, unless the records are exempt pursuant to Article I, Section 24(a), of the Florida Constitution and §119.07(1), F.S. The Department shall be the final authority as to the appropriation, availability and adequacy of funds. In the event the Recipient fails to fully comply with the terms and conditions of this agreement, the Department may terminate the agreement upon written notice. Such notice may be issued without providing an opportunity for cure if it specifies the nature of the noncompliance and states that provision for cure would adversely affect the interests of the State or is not permitted by law or regulation. Otherwise, notice of termination will be issued after the Recipient's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Department specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Department may employ the default provisions in Rule 60A-1.006(3), F.A.C., but is not required to do so in order to terminate the agreement. The Department's failure to demand performance of any provision of this agreement shall not be deemed a waiver of such performance. The Department's waiver of any one breach of any provision of this agreement shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this agreement. The provisions herein do not limit the Department's right to remedies at law or in equity. The validity of this agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this agreement and the release of the Department from all its obligations to the Recipient. This agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this agreement. No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this agreement shall survive the terms and life of this agreement as a whole. The agreement may be executed in any number of counterparts, any one of which may be taken as an original. In the event of termination, the Recipient will be compensated for any work satisfactorily completed through the date of termination or an earlier date of suspension of work.

Disputes and Appeals: The Department shall make its decision in writing when responding to any disputes, disagreements, or questions of fact arising under this agreement and shall distribute its response to all concerned parties. The Recipient shall proceed diligently with the performance of this agreement according to the Department's decision. If the Recipient appeals the Department's decision, the appeal also shall be made in writing within twenty-one (21) calendar days to the Department's clerk (agency clerk). The Recipient's right to appeal the Department's decision is contained in Chapter 120, F.S., and in procedures set forth in Fla. Admin. Code R.28-106.104. Failure to appeal within this time frame constitutes a waiver of proceedings under Chapter 120, F.S. After receipt of a petition for alternative dispute resolution the Department and the Recipient shall attempt to amicably resolve the dispute through negotiations. Timely delivery of a petition for alternative dispute resolution and completion of the negotiation process shall be a condition precedent to any legal action by the Recipient concerning this agreement.

Liability: Unless the Recipient is a state agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor. Nothing herein shall be construed as consent by a state agency of the State of Florida to be sued by third parties in any matter arising out of any contract. Nothing shall be construed to affect in any way the Recipient rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in 768.28, F.S.