

**January 2, 2020**  
**BOARD OF COUNTY COMMISSIONERS**  
**ORANGE COUNTY, FLORIDA**  
**REQUEST FOR PROPOSALS (RFP) Y20-171-KB; ADDENDUM # 4**

**EMERGENCY MEDICAL SUPPLIES FOR FIRE RESCUE**

This Addendum is hereby incorporated into the bid documents of the project referenced above. The following items are clarifications, corrections, additions, deletions, and/or revisions to and shall take precedence over the original documents. Additions are indicated by **underlining** and deletions via ~~strikethrough~~.

**A.** The **Attachments, Section 5, Contract #Y20-171** is replaced in its entirety and is attached herein.

**B. Questions and Answers**

1. Question: Is attachment B indicating past purchase(s) & frequency?

**Answer:** Yes, the listed equipment and unit of measure are representative of previous Orange County acquired items.

2. Question: Do we have to bid on every item in order to be considered for this project?

**Answer:** To remain responsive, the Proposer must complete seventy-five percent (75%) of the items listed in Attachment A. The attachment will alert the Proposer if they have not fulfilled the required minimum items.

3. Question: If there are terms and conditions Vendor may not be able to agree to will the County consider exceptions to terms and conditions submitted with Vendor's proposal?

**Answer:** Any exceptions to the contract must be clearly indicated by the return of the standard contract with the proposal as stated in Article 5 Draft Contract page 2 of the General Terms and Conditions.

4. Question: Will the County agree to remove the most favored customer language found in Section 2 Specification/Scope of Services on Page 1, Item 7 (below)?

*The Contractor represents and warrants that the prices for the products shall not be less favorable than prices applicable to sales by the Contractor to any other customer purchasing like quantities of substantially comparable products. If at any time during the term of this contract, the Contractor provides to any other*

*such customer more favorable prices, the Contractor shall immediately offer the to sell these products to the County at equivalent prices in accordance with the prices provided to such other customer.*

**Answer:** No, the language remains as stated in the solicitation.

5. Question: Will the County agree to remove the most favored customer language found in Section 3, Proposal Submission Requirements and Documentation on Page 3-4, Tab 4 C. (below)?

*The Contractor represents and warrants that the prices for the products shall not be less favorable than prices applicable to sales by the Contractor to any other customer purchasing like quantities of substantially comparable products. If at any time during the term of this contract, the Contractor provides to any other such customer more favorable prices, the Contractor shall immediately offer the to sell these products to the County at equivalent prices in accordance with the prices provided to such other customer.*

**Answer:** No, the language remains as stated in the solicitation.

6. Question: Will the County agree to remove the most favored customer language found in Section 5, Attachments on Page 1 Subsection A. (below)?

*The Contractor represents and warrants that the prices for the products shall not be less favorable than prices applicable to sales by the Contractor to any other customer purchasing like quantities of substantially comparable products. If at any time during the term of this contract, the Contractor provides to any other such customer more favorable prices, the Contractor shall immediately offer the to sell these products to the County at equivalent prices in accordance with the prices provided to such other customer.*

**Answer:** No, the language remains as stated in the solicitation.

7. Question: In Section 5, Attachments on Page 1. In lieu of a Contractor's Catalog, will the County accept Vendor's internal government list price? Vendor does not have a published list price or a published catalog. For the purposes of this bid and the resulting Contract, Vendor requests defining the term, "list price" as Vendor's Internal (non-published) Government List Price which is a price for commercial items.

**Answer:** Yes, but the price list must be available to the County either in hard copy or electronic copy to enable price verification.

8. Question: Is the County willing to negotiate any insurance terms that we may not be able to agree to?

**Answer:** Any exceptions to the contract must be clearly indicated by the return of the standard contract with the proposal as stated in Article 5 Draft Contract page 2 of the General Terms and Conditions.

9. Question: Is subcontracting with Minority/Women Business Enterprise or Service-Disabled Veterans required for this contract?

**Answer:** No, this is a goal not a requirement. There is a 24% Minority/Women Business Enterprise (M/WBE) **goal** of the contract value for this project. Refer to section 3, page 5 for more information. Additional point (**Bonus points**) consideration will be available for proposers who utilize registered Service-Disabled Veterans (SDV). Refer to section 3, page 8 for more information.

10. Question: How is bid going to be awarded? By section or line? If by section do we have to bid all items in the section, as there are some exclusives on the bid, can we mark them as exclusive and still be considered for the section?

**Answer:** The award is all or none basis, with the right to make multiple awards.

11. Question: Will we be provided a list of items awarded to us? Bid states we are required to maintain 75% of those items awarded to us in stock, will we be given usage for the awarded items to maintain that required stock?

**Answer:** A usage report, Attachment B is attached to the solicitation for the 2018-2019 usage. The contract award is an indefinite requirement, therefore the County is not required to purchase more than the stated dollar amount in the solicitation. The Price Analysis is a sample order for scoring purposes by the Procurement Committee. This is not to mean they must constantly have the listed items for the life of the contract. All items in the entire catalog and/or price list would be available under the awarded contract.

12. Question: Do we have to provide a catalog, or can we provide a link to our website and sign on?

**Answer:** In accordance with Section 3, Proposal Submission Requirements and Documentation, providing a catalog with the Proposer's response is not a requirement.

13. Question: Is it a requirement to use a minority business for this bid, we do not currently have a program in place to work with minorities due to licensing and certificate requirements such as VAWD and track and trace.

**Answer:** No it is not a requirement to use a minority business. There is a 24% Minority/Women Business Enterprise (M/WBE) **goal** of the contract value for this project. Refer to section 3, page 5 for more information.

**14.Question:** On the item list there is not a UOM listed, how are we pricing these items? Will we just price in the UOM that we sell it in?

**Answer:** Yes, provide the unit of measure (UOM) that it is able to be sold in the description section in Attachment A.

**15.Question:** The original bid documents state in Section 1, General Terms and Conditions under point 3. Contract Term that the intent is for a one (1) year contract with four (4) additional one (1) year renewals. However, the addendum states in Article 32 that the original contract prices shall be firm for the entirety of the initial (3 year) contract period. Could you please confirm the length of the initial term of the contract? Additionally, can you confirm how many one (1) year renewals there will be?

**Answer:** The **Attachments, Section 5, Contract #Y20-171** is replaced in its entirety and replaced with the following modification under Section A of this addendum. The contract term is for one (1) year with four (4) additional one (1) year renewals.

**16.Question:** If the length of the initial term is longer than one (1) year and is multi-years, can price increases be considered either at the time of a nationwide manufacturer cost increase or on a yearly basis with supporting documentation of said nationwide manufacturer increases?

**Answer:** The Price Escalation/De-Escalation (CPI) provision is stated in Article 32 of The **Attachments, Section 5, Contract #Y20-171** that is replaced in its entirety and replaced with the following modification under Section A of this addendum.

**17.Question:** It is stated in Specifications / Scope of Services under Performance point 7 "The Contractor represents and warrants that the prices for the products shall not be less favorable than prices applicable to sales by the Contractor to any other customer purchasing like quantities of substantially comparable products. If at any time during the term of this contract, the Contractor provides to any other such customer more favorable prices, the Contractor shall immediately offer to sell these products to the County at equivalent prices in accordance with the prices provided to such other customer." That same clause is also stated in Tab 4. Fee Schedule and on the Fee Schedule Form. While we intend to always offer fair and competitive pricing, we have thousands of contracts with public and private entities. Each agreement is priced and awarded based on the

dynamics of each opportunity including local, regional, state and federal requirements. The various contracts presents an insurmountable dilemma of measuring and complying with this language. Due to these issues, would the County consider removing this requirement or allowing an exception to be taken that would have us agree to providing fair and market competitive pricing?

**Answer:** No, the language remains as stated in the solicitation and any exceptions to the contract must be clearly indicated by the return of the standard contract with the proposal as stated in Article 5 Draft Contract page 2 of the General Terms and Conditions.

**18. Question:** It is stated under Tab 7 Business Development Documentation for Minority/Women Owned Business Enterprise that proposers must comply with the Orange County M/WBE ordinance. Because this was not a requirement in the past, can you confirm if all proposers are required to utilize a M/WBE vendor for 24% of our potential award? Or is this a goal for the County to award up to 24% of the contract to a M/WBE?

**Answer:** No, this is a goal not a requirement. There is a 24% Minority/Women Business Enterprise (M/WBE) **goal** of the contract value for this project. Refer to section 3, page 5 for more information.

**19. Question:** Can you confirm that exceptions will be allowed and will not render us non-responsive? Furthermore, if we take exception to any language in the bid specifications, how will that be taken in to consideration for award? We want to ensure that any exception that may be taken due to unfavorable language does not prohibit us from being considered for award.

**Answer:** Exceptions to contract terms will not render a Proposer non-responsive if submitted in accordance with Article 5 Draft Contract page 2 of the General Terms and Conditions; any exceptions to the contract must be clearly indicated by the return of the standard contract with the proposal. Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

**20. Question:** Line #57 on Attachment A specifies AMBU #520-213-000. Can you confirm this is the right number or should it be AMBU #530-213-000?

**Answer:** Line #57's manufacturer number should read as 530-213-000 for the Manual Resuscitator, size PEDIATRIC, from manufacturer "AMBU".

**21. Question:** It is mentioned that the evaluation of pricing on Attachment A will consist of evaluating lowest pricing offered for common items among all proposers and evaluating the average discount offered among all items

offered. Does this mean that if our pricing is better, but our average discount is not the best, that will be essentially counted against us, even though we would have the lower pricing?

**Answer:** The selection criteria weight for Fee Proposal is scored in three (3) categories identified in Section 4 of the RFP.

**22. Question:** For each category on Attachment A, can we only have one % discount applied to all items within the category, or can these be differed % discounts from item to item? It states “Single Fixed Percentage Discount Off List Price”, so I want to confirm what we can provide here.

**Answer:** Attachment A is for line item, therefore allowing a percentage discount per line item. The percentage discount may vary for each line item.

**23. Question:** How do you intend to award this? By category, line item, or all or none?

**Answer:** The award is all or none basis, with the right to make multiple awards.

**24. Question:** Are we to fill out Attachment B and submit with our proposal? If so, can you confirm how we should fill out?

**Answer:** Attachment B is for usage reference only obtained from the current contract Y17-108.

**25. Question:** Line 29: Brand Name or Equals / Deviations- Can you clarify for us on this requirement – since the EMS Attachment A does not appear to have any lines marked ‘Brand Name or Equal’, but instead has a column labeled as Current Part # > does this mean that any items bid that do not match what is currently being used is considered a ‘Deviation’ and therefore must have all info / literature submitted today by 5pm to be included in the Question Period for consideration?

**Answer:** The Proposer is to list an equivalent to the item listed. Attachment A is a sample order for scoring purposes only and documentation for deviations is not required to be submitted.

**26. Question:** Describe your billing process - How much detail did Orange County want for this requirement?

**Answer:** The billing detail requirements are defined in **Article 3-B, PAYMENTS TO CONTRACTOR**, of the contract in the RFP.

**27. Question:** Detail the reporting capabilities of your firm. Provide any sample usage reports which would be available to the County. Can you please clarify what types of reporting Orange County is looking for in relation to this RFP for Emergency Medical Supplies?

**Answer:** Proposers may submit a sample copy of a monthly invoice statement or a method of how we can research a usage report of purchased items and any ordered equipment on back-order.

**28. Question:** Does the awarded vendor have to be a designated MWBE enterprise? Will a supplier subcontracting plan suffice? (pg 25-31)

**Answer:** No, the awarded vendor does not have to be a designated MWBE enterprise. There is a 24% Minority/Women Business Enterprise (M/WBE) **goal** of the contract value for this project. Refer to section 3, pages 5-11 for more information.

**C. ACKNOWLEDGEMENT OF ADDENDA**

1. The bidder shall acknowledge receipt of this addendum by completing that applicable section in the solicitation or by completion of the acknowledgement information on the addendum. Either form of acknowledgement must be completed and returned no later than the date and time for receipt of the bid.
2. All other terms and conditions of the RFP Y20-171-KB remain the same.
3. Receipt acknowledge by:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm

**CONTRACT # Y20-171**

This Contract is made as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and between Orange County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and \_\_\_\_\_  
[ ] an individual, [ ] a partnership, [ ] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. or Social Security number is \_\_\_\_\_.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

**ARTICLE 1            SERVICES**

The CONTRACTOR'S responsibility under this Contract is to provide Emergency Medical Supplies as more specifically set forth in the Scope of Services detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of this Contract shall be Captain William Steele, telephone no. 407-254-7775.

**ARTICLE 2            SCHEDULE**

The CONTRACTOR shall commence services on \_\_\_\_\_ and complete all services by \_\_\_\_\_.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

**This contract may be renewed, for four (4) additional one (1) year periods upon mutual written agreement of the parties at the same prices, terms and conditions. Any change in price, terms or conditions shall be accomplished by written amendment to this contract.**

Any order issued during the effective date of this contract, but not completed within that period, shall be completed by the CONTRACTOR within the time specified in the order. The contract shall govern the CONTRACTOR and the COUNTY'S rights and obligations with respect to the extent as if the order were completed during the contract's performance period.

A. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "final invoice" on the CONTRACTOR'S final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Orange County. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONTRACTOR.

**ARTICLE 3            PAYMENTS TO CONTRACTOR**

A. The total amount to be paid by the COUNTY under this Contract for the base period, shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The CONTRACTOR will notify the COUNTY, in writing, when 90% of the estimated contract amount has been reached. The CONTRACTOR will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" for services rendered toward the completion of the Scope of Services. Where incremental billing for partially completed items is permitted, the total incremental billings shall not exceed the percentage of estimated completion as of the billing date.



B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the initiating County Department, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act.

A valid invoice shall include the following:

1. Reference to the Delivery Order/ Purchase Order Number
2. Delivery Dates/ Service Dates
3. Itemization of Goods Delivered/ Services Rendered
4. Unit Prices in accordance with the Exhibit "B"

C. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "final invoice" on the CONTRACTOR'S final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Orange County. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONTRACTOR.

#### **ARTICLE 4                    INDEFINITE QUANTITY CONTRACT**

This is an indefinite quantity contract for the goods or services specified. The quantities of goods and services specified are estimates only and are not purchased by this contract.

Delivery or performance shall be only as authorized by orders in accordance with the terms of this contract. The Contractor shall furnish to the County, when and if ordered, the goods and services up to and including the quantity designated in the schedule as the "Total Estimated Quantity." The County shall guarantee orders of at least \$10,000 during the initial contract performance period. The County may issue orders requiring delivery to multiple destinations or performance at multiple locations.

#### **ARTICLE 5                    INSURANCE REQUIREMENTS**

**Vendor/Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Vendor/Contractor is not intended to and shall not in any manner limit or qualify the liabilities assumed by Vendor/Contractor under this contract. Vendor/Contractor is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.**

The Vendor/Contractor shall require and ensure that each of its sub-Vendors/sub-Contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

*(Note: State licenses can be checked via [www.florir.com/companysearch/](http://www.florir.com/companysearch/) and A.M. Best Ratings are available at [www.ambest.com](http://www.ambest.com))*

Required Coverage:

- Commercial General Liability - The Vendor/Contractor shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$1,000,000 (one million dollars) per occurrence. Vendor/Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

Required Endorsements:

- Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.  
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations
- Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.  
Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.
- Business Automobile Liability - The Vendor/Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$1,000,000 (one million dollars) per accident. In the event the Vendor/Contractor does not own automobiles the Vendor/Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Required Endorsements:

- Workers' Compensation - The Vendor/Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis.

Required Endorsements:

- Waiver of Subrogation- WC 00 03 13 or its equivalent

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of Vendor/Contractor most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the Vendor/Contractor agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Vendor/Contractor agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Vendor/Contractor of the obligation to provide replacement coverage.

**By entering into this contract Vendor/Contractor agrees to provide a waiver of subrogation or a waiver of transfer of rights of recovery, in favor of the County for the workers' compensation and general liability policies as required herein. When required by the insurer or should a policy condition not permit the Vendor/Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Vendor/Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.**

Prior to execution and commencement of any operations/services provided under this contract the Vendor/Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the Vendor/Contractor shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County Florida.

For continuing service contracts renewal certificates shall be submitted immediately upon request by either the COUNTY or the COUNTY's contracted certificate compliance management firm. The certificates shall clearly indicate that the Vendor/Contractor has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. Vendor/Contractor shall notify the COUNTY not less than thirty (30) business days (ten business days for non-payment of premium) of any material change in or cancellation/non-renewal of insurance coverage. The Vendor/Contractor shall provide evidence of replacement coverage to maintain compliance with the aforementioned insurance requirements to the COUNTY or its certificate management representative five (5) business days prior to the effective date of the replacement policy (ies).

The certificate holder shall read:

Orange County Florida  
c/o Procurement Division  
400 E. South Street, 2<sup>nd</sup> Floor  
Orlando, Florida 32801

## **ARTICLE 6            INDEMNIFICATION**

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONTRACTOR or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the COUNTY.

## **ARTICLE 7            SUBCONTRACTING AND MINORITY/WOMEN EMPLOYMENT PARTICIPATION**

- A. The CONTRACTOR shall be responsible for reporting Minority/Women Business Enterprise (M/WBE) sub-CONTRACTOR contract dollar amount(s) for the M/WBE sub-Contractor(s) listed in this document, by submitting the appropriate documents, which shall

include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the COUNTY. Quarterly updated M/WBE utilization reports and Equal Opportunity Workforce Schedule to be submitted every quarter during the term of the contract. Additionally, the CONTRACTOR shall ensure that the M/WBE participation percentage proposed in the Contractor's Proposal submitted for this Contract is accomplished.

- B. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the Business Development Division, with a copy to the COUNTY'S designated representative, within ten (10) days after COUNTY'S execution.
- C. The CONTRACTOR shall be responsible for reporting, on the Equal Opportunity Workforce Schedule, the local minority/women employment percentage levels within the firm and the minority/women employment percentage levels that the firm anticipates utilizing to fulfill the obligations of this Contract. The report(s) shall be submitted to the Business Development Division, on a quarterly basis during the life of the Contract.
- D. The awarded prime CONTRACTOR shall furnish written documentation evidencing actual dollars paid to all sub-Contractors utilized by the prime CONTRACTOR on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the COUNTY may determine actual MWBE participation achieved by the prime CONTRACTOR prior to the issuance of final payment.
- E. The awarded prime Contractor's responsibilities and requirements are listed below and shall be included in the sub-agreement:

- 1. Whereas the prime contractor is being paid in accordance with the Local Government Prompt Payment Act, contractor shall incorporate a 72-hour prompt payment assurance provision and payment schedule in all sub-contracts between the prime and sub-contractors.

Note: The County reserves the right to verify that all sub-contractors are being paid within 72 hours of the County's remittance to the prime contractor.

- 2. File copies of all executed subcontractor agreement/contracts between the prime and all M/WBE subcontractors on the project to Orange County Business Development Division one-time for the duration of the contract.
- 3. The awarded prime Contractor shall furnish written documentation evidencing actual dollars paid to each subcontractor utilized by the prime Contractor on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the County may determine actual participation achieved by the prime Contractor prior to the issuance of final payment.
- 4. The sub-contract agreement shall include: (a) the percentage of the overall contract value to be sub-contracted; and (b) the dollar amount based on the percentage of

the contract value to be sub-contracted (if available at time of sub-contract agreement).

5. The prime Contractor shall submit an updated quarterly MWBE utilization report and the Equal Opportunity Workforce Schedule report for all professional service contracts. The required reports are to be submitted to the Business Development Division no later than the fifth day after end of reporting period.
6. All sub-contracts shall include the following statement: “It is the M/WBE responsibility to submit the required Quarterly M/WBE utilization reports to the prime and Final M/WBE payment verification form to Business Development Division denoting the percentage of the overall contract fees”

The M/WBE’s failure to submit the required documents could negatively impact their M/WBE certification.

7. The awarded prime Contractor shall not substitute, replace or terminate any M/WBE firm without prior written authorization of the Business Development Division, nor shall the prime reduce the scope of work or monetary value of a subcontractor without written authorization of the Business Development Division.
8. Upon execution of any renewal or extension to this contract, the Prime Contractor shall execute renewals with all approved specified sub-contractors for the full duration of the contract.
9. The prime Contractor shall expeditiously advise all M/WBE’s and the Business Development Division of all change orders, contract modifications, additions and deletions to any and all contracts issued to the M/WBE firm on their team.
10. The COUNTY may at its discretion require copies of subcontracts/purchase orders for the non-M/WBE’s listed on **SCHEDULE OF SUBCONTRACTING - M/WBE PARTICIPATION FORM** and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-M/WBE sub-Contractors certifying that a prompt payment clause has been included in that contract or purchase order.

- F. By entering into this contract, the CONTRACTOR affirmatively commits to comply with the M/WBE subcontracting requirements submitted with his/her Proposal. The failure of the CONTRACTOR/CONTRACTOR to comply with this commitment during the Contract’s performance period may be considered a breach of Contract.

**The COUNTY may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement.**

**ARTICLE 8 SERVICE-DISABLED VETERAN (SDV) REPORTING**

The prime CONTRACTOR shall be responsible for reporting (SDV) sub-Contractor contract dollar amount(s) for the SDV firms(s) listed in the document by submitting appropriate documents evidencing contract award of work to the Business Development Division (BDD). The report(s)

shall be submitted in the (BDD) with a copy to the representative within ten (10) days after issuance of individual assignments or task authorizations.

- A. Subsequent amendments to this contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the BDD, with a copy to the COUNTY'S designated representative, within ten (10) calendar days after COUNTY'S execution.
- B. The awarded prime CONTRACTOR shall furnish written documentation evidencing actual dollars paid to all sub-Contractors utilized by the CONTRACTOR on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the COUNTY may determine actual SDV participation achieved by the CONTRACTOR prior to the issuance of final payment.
- C. File copies of all executed sub-contractor agreements/contracts between the prime and all SDV Sub-contractors on the project to Orange County Business Development Division one time for the duration of the contract period. The Scope and Schedule of Subcontracting - SDV Participation form and the letter of Intent must be included in the sub-contract agreement.
- D. Notwithstanding any termination provisions in this Subcontract Agreement, the Prime Contractor shall not terminate this Subcontract Agreement without prior written authorization of the Orange County Business Development Division Manager, nor shall the Prime Contractor amend this Subcontract Agreement, or reduce the Scope of Work or monetary value awarded under this Subcontract Agreement, without prior written authorization of the Orange County Business Development Manager.
- E. It is the intent of the COUNTY to insure prompt payment of all sub-Contractors working on COUNTY projects. The CONTRACTOR shall:
  - 1. Submit copies of executed contracts between the CONTRACTOR and all of its SDV sub-Contractors to the BDD.
  - 2. Whereas the Prime Contractor is being paid in accordance with the Local Government Prompt Payment Act, Contractor shall incorporate a 72 Hour prompt payment assurance provision and payment schedule in all contracts between the CONTRACTOR and SDV sub-Contractors.

**Note:** The County reserves the right to verify that all sub-contractors are being paid within 72 hours of the County's remittance to the prime contractor.

- F. By entering into this contract, the CONTRACTOR affirmatively commits to comply with the SDV requirements submitted with his/her Proposal. The failure of the CONTRACTOR to comply with this commitment during the Contract's performance period may be considered a breach of Contract.

**ARTICLE 9                    DISLOCATED WORKERS**

**CONTRACTOR has committed to hire \_\_\_\_\_ ( ) CareerSource Central Florida participants residing in the Orlando MSA. Therefore, within five (5) days after contract award,**

**CONTRACTOR shall contact the Orange County Business Development Liaison (BDD) at (407) 836-7317 to assist with meeting this requirement. The BDD Liaison will work with the CareerSource Central Florida staff and the CONTRACTOR to ensure that the process is properly adhered until all requirements have been met. CareerSource Central Florida participants may be employed in any position within the firm but must be hired on a fulltime basis.**

The failure of the CONTRACTOR to comply with these hiring commitments after contract award shall be grounds for termination of the contract for default.

During performance of the contract, the CONTRACTOR will take appropriate steps to ensure that individuals hired under this program are retained. However, if it becomes necessary to replace an employee, the CONTRACTOR shall contact the BDD Liaison. At its discretion, COUNTY may periodically request submission of certified payrolls to confirm the employment status of program participants.

**ARTICLE 10                    FEDERAL AND STATE TAX**

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to this Contract.

**ARTICLE 11                    AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement.

**ARTICLE 12                    CONFLICT OF INTEREST**

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of the notification

by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

**ARTICLE 13            UNIFORM COMMERCIAL CODE**

The Uniform Commercial Code (Florida Statutes, Chapter 672) shall prevail as the basis for contractual obligations between the CONTRACTOR and the COUNTY for any terms and conditions not specifically stated in this Contract.

**ARTICLE 14            TERMINATION**

**A.        Termination for Default:**

The COUNTY may, by written notice to the CONTRACTOR, terminate this contract for default in whole or in part (delivery orders, if applicable) if the CONTRACTOR fails to:

1.        Provide products or services that comply with the specifications herein or fails to meet the COUNTY'S performance standards
2.        Deliver the supplies or to perform the services within the time specified in this contract or any extension.
3.        Make progress so as to endanger performance of this contract
4.        Perform any of the other provisions of this contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONTRACTOR through the Manager, Procurement, affording them the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONTRACTOR in accordance with the County's Procurement Ordinance. The CONTRACTOR and its sureties (if any) shall be liable for any damage to the COUNTY resulting from the CONTRACTOR's default of the contract. This liability includes any increased costs incurred by the COUNTY in completing contract performance.

In the event of termination by the COUNTY for any cause, the CONTRACTOR will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONTRACTOR shall:

1.        Stop work on the date and to the extent specified.
2.        Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
3.        Transfer all work in process, completed work, and other materials related to the terminated work as directed by the COUNTY.
4.        Continue and complete all parts of that work that have not been terminated.



Neither CONTRACTOR nor COUNTY shall be liable, nor may cancel this contract for default, when delays arise out of causes beyond the control of CONTRACTOR or COUNTY. Such causes may include but are not restricted to acts of God, acts of COUNTY in sovereign capacity, fires, floods, lightning strikes, epidemics, quarantine restrictions, strikes, freight embargoes, wars, civil disturbances, work stoppage, power failures, laws, regulations, ordinances, acts or orders of any governmental agency or official thereof, and unusually severe weather. In every case, the delay must be beyond the control of the claiming party. If CONTRACTOR is delayed in its performance as a result of the above causes, COUNTY, shall upon written request of CONTRACTOR, agree to equitably adjust the provisions of this contract, including price and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit COUNTY'S right to terminate for convenience.

**B. Termination for Convenience**

The COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the County's interest. If this contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY Notice of Termination shall provide the CONTRACTOR thirty (30) days prior notice before it becomes effective. **A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.**

**ARTICLE 15 FORCE MAJEURE**

1. The Contractor shall not be held responsible for any delay and/or failure in performance of any part of this contract to the extent such delay or failure is caused by explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond the Contractor's control so long as the Contractor's delay is not caused by the Contractor's own fault or negligence. That notwithstanding, the Contractor shall notify the County in writing within five (5) calendar days after the beginning of any such cause that would affect its performance hereunder and the County reserves the right the request additional information that supports the validity of the Contractor's Force Majeure claim. Failure to notify the County in a timely manner of any claim of Force Majeure made pursuant to this section is cause for termination of this contract.
2. If the Contractor's performance is delayed pursuant to this section for a period exceeding seven (7) calendar days from the date the County receives the required Force Majeure notice, the County shall have the right to terminate this contract thereafter and shall only be liable to the Contractor for any work performed and validated (if required for payment hereunder) prior to the date of the County's contract termination.
3. If the Contractor's performance is delayed pursuant to this section, the County may, upon written request of the Contractor, agree to equitably adjust the provisions of this contract, including price, performance, and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit the County's right to terminate for convenience.

**ARTICLE 16 PERSONNEL**

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereafter shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR'S key personnel, as may be listed in Exhibit "A", must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. The COUNTY may require, in writing, that the CONTRACTOR remove from this contract any employee the COUNTY deems incompetent, careless, or otherwise objectionable.

**ARTICLE 17            TRUTH IN NEGOTIATION CERTIFICATE**

Signature of this Contract by the CONTRACTOR shall act as the execution of the truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside Contractors. The COUNTY shall exercise its right under this "Certificate" within one (1) year following final payment.

**ARTICLE 18            ARREARS**

The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

**ARTICLE 19            DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment or any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

All oral and written information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the COUNTY, or at its expense, will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

**ARTICLE 20                    INDEPENDENT CONTRACTOR RELATIONSHIP**

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than as specifically provided for in this Agreement.

**ARTICLE 21                    CONTINGENT FEES**

The CONTRACTOR warrants that it has not employed or retrained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

**ARTICLE 22                    ACCESS AND AUDITS**

The CONTRACTOR shall establish and maintain a reasonable accounting system, which enables ready identification of CONTRACTOR'S cost of goods and use of funds. Such accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods for at least five (5) years after completion of this contract. The COUNTY or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the CONTRACTOR or its sub-Contractors as required to comply with this section for the purpose of inspection or audit anytime during normal business hours at the CONTRACTOR'S place of business. This right to audit shall include the CONTRACTOR'S sub-Contractors used to procure goods or services under the contract with the COUNTY. CONTRACTOR shall ensure the COUNTY has these same rights with sub-Contractor(s) and suppliers.

**ARTICLE 23                    EQUAL OPPORTUNITY**

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the CONTRACTOR shall abide by the following provisions:

- A.     The CONTRACTOR shall represent that the CONTRACTOR has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
  
- B.     The CONTRACTOR shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.

- C. The provisions of the prime contract shall be incorporate by the CONTRACTOR into the contracts of any applicable subcontractors.

**ARTICLE 24            DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION.**

By executing this contract the firm affirms that it is in compliance with the requirements of 2 C.F.R. Part 180 and that neither it, its principals, nor its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

**ARTICLE 25            FLORIDA CONVICTED/SUSPENDEDDISCRIMINATORY COMPLAINTS.**

By executing this contract the firm affirms that it is not currently listed in the Florida Department of Management Services Convicted/Suspended/Discriminatory Complaint Vendor List.

**ARTICLE 26            SCRUTINIZED COMPANIES**

- A. By executing this Agreement, the Contractor certifies that it is eligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes.
- B. Specifically, by executing this Agreement, the Contractor certifies that it is **not** on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.
- C. Additionally, if this Agreement is for an amount of one million dollars (\$1,000,000) or more, by executing this Agreement, the Contractor certifies that it is **not**:
1. On the “Scrutinized Companies with Activities in Sudan List” or the “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List,” created pursuant to Section 215.473, Florida Statutes; and/or
  2. Engaged in business operations in Cuba or Syria.
- D. The County reserves the right to terminate this Agreement immediately should the Contractor be found to:
1. Have falsified its certification of eligibility to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes; and/or
  2. Have become ineligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statute subsequent to entering into this Agreement with the County.
- E. If this Agreement is terminated by the County as provided in subparagraph 4(a) above, the County reserves the right to pursue any and all available legal remedies against the Contractor, including but not limited to the remedies as described in Section 287.135, Florida Statutes.

- F. If this Agreement is terminated by the County as provided in subparagraph 4(b) above, the Contractor shall be paid only for the funding-applicable work completed as of the date of the County's termination.
- G. Unless explicitly stated in this Section, no other damages, fees, and/or costs may be assessed against the County for its termination of the Agreement pursuant to this Section.

## **ARTICLE 27            MODIFICATIONS OF WORK**

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall (1) if requested by COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY in writing if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONTRACTOR shall suspend work on that portion of the work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall issue a Contract Amendment or Change Order and the CONTRACTOR shall not commence work on any such change until such written amendment or change order has been issued and signed by each of the parties.

## **ARTICLE 28            CONTRACT CLAIMS**

"Claim" as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a Contractor against the County relating to a particular contract shall be submitted to the Procurement Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Contractor also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith;

that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

**Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.**

The decision of the Procurement Manager shall be issued in writing and shall be furnished to the Contractor. The decision shall state the reasons for the decision reached. The Procurement Manager shall render the final decision within sixty (60) days after receipt of Contractor's/Contractor's written request for a final decision. The Procurement Manager's decision shall be final and conclusive.

**The Contractor shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of Procurement.**

**ARTICLE 29            TOBACCO FREE CAMPUS**

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

**ARTICLE 30            VERIFICATION OF EMPLOYMENT STATUS**

Prior to the employment of any person under this contract, the contractor shall utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of (a) all persons employed during the contract term by the contractor to perform employment duties within Florida and (b) all persons, including subcontractors, assigned by the contractor to perform work pursuant to the contract with Orange County. Please refer to USCIS.gov for more information on this process.

**Only those employees determined eligible to work within the United States shall be employed under the contract.**

Therefore, by submission of a bid or proposal in response to this solicitation, the contractor confirms that all employees in the above categories will undergo e-verification before placement on this contract. The contractor further confirms his commitment to comply with this requirement by completing the E- Verification certification.

**ARTICLE 31            LAWS AND REGULATIONS**

All applicable Federal and State laws, municipal and County ordinances shall apply to the solicitation and Contract.

**ARTICLE 32            PRICE ESCALATION/DE-ESCALATION (CPI)**

The County may allow a price escalation provision within this award. The original contract prices shall be firm for the entirety of the initial (1 year) contract period. A price escalation/de-escalation will be considered at the time of contract renewal and at renewal intervals thereafter, provided the Contractor notifies the County, in writing, of the pending price escalation/de-escalation a minimum of sixty (60) days prior to the contract renewal date. Price adjustments shall be based on the latest version of the Consumers Price Index (CPI-U) for All Urban Consumers, All Items, U.S. City Average, non-seasonal, as published by the U.S. Department of Labor, Bureau of Labor Statistics. This information is available at [www.bls.gov](http://www.bls.gov).

Price adjustment shall be calculated by applying the simple percentage model to the CPI data. This method is defined as subtracting the base period index value (at the time of initial award) from the index value at time of calculation (latest version of the CPI published as of the date of request for price adjustment), divided by the base period index value to identify percentage of change, then multiplying the percentage of change by 100 to identify the percentage change. Formula is as follows:

$$\text{Current Index} - \text{Base Index} / \text{Base Index} = \% \text{ of Change}$$

$$\% \text{ of Change} \times 100 = \text{Percentage Change}$$

**CPI-U Calculation Example:**

CPI for current period	232.945
Less CPI for base period	229.815
Equals index point change	3.130
Divided by base period CPI	229.815
Equals	0.0136
Result multiplied by 100	0.0136 x 100
Equals percent change	1.4%

A price increase may be requested only at each time interval specified above, using the methodology outlined in this section. To request a price increase, Contractor shall submit a letter stating the percentage amount of the requested increase and adjusted price to the Orange County Procurement Division. The letter shall include the complete calculation utilizing the formula above, and a copy of the CPI-U index table used in the calculation. The maximum allowable increase shall not exceed 4%, unless authorized by the Manager, Procurement Division. If approved, the price adjustment shall become effective on the contract renewal date. All price adjustments must be accepted by the Manager, Procurement Division and shall be memorialized by written amendment to this contract. No retroactive contract price adjustments will be allowed.

Should the CPI-U for All Urban Consumers, All Items, U.S City Average, as published by the U.S. Department of Labor, Bureau of Labor Statistics decrease during the term of the contract, or any renewals, the Contractor shall notify the Orange County Procurement Division of price decreases in the method outlined above. If approved, the price adjustment shall become effective on the contract renewal date. If the Contractor fails to pass the decrease on to the County, the County reserves the right to place the Contractor in default, cancel the award, and remove the Contractor from the County Vendor List for a period of time deemed suitable by the County. In the event of this occurrence, the County further reserves the right to utilize any options as stated herein.

**ARTICLE 33           ENFORCEMENT COSTS**

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the Parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any litigation that arises either directly, or indirectly.

**ARTICLE 34           JURY WAIVER**

Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this agreement.

**ARTICLE 35           GOVERNING LAW AND VENUE**

Any and all legal actions associated with this contract will be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be in the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of

Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

**ARTICLE 36**            **NO REPRESENTATIONS**

Each party represents that they have had the opportunity to consult with an attorney, and have carefully read and understand the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

**ARTICLE 37**            **AUTHORITY TO PRACTICE**

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to, conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY upon request.

**ARTICLE 38**            **SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

**ARTICLE 39**            **SUCCESSORS AND ASSIGNS**

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

**ARTICLE 40**            **REMEDIES**

This Contract shall be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be the Circuit Court in and for Orange County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or at equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**ARTICLE 41**            **ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**ARTICLE 42**            **NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:



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and if sent to the CONTRACTOR shall be mailed to:

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**ARTICLE 43      ATTACHMENTS**

The following attachment(s) is/are attached hereto, and made a part of this Contract in order of precedence:

- A.      Attachment A – Orange County Fire Rescue Sample Order
- B.      Attachment B – Orange County Fire Rescue EMS Spend Reporting

**IN WITNESS WHEREOF**, the Board of County Commissioners of Orange County, Florida has made and executed this Contract on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.

CONTRACTOR:

ORANGE COUNTY, FLORIDA:

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Company Name

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Carrie Mathes, MPA, CFCM, CPPO, C.P.M.,  
Procurement Division Manager

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Signature

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Date

---

Typed Name

---

Title

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Date