

**ADOPTION AND AMENDMENT OF  
THE STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES (FL-DMS)  
CONTRACT WITH SUBURBAN PROPANE, L.P.,  
FOR LIQUEFIED PETROLEUM (LP)  
GAS (DMS Contract No. 15111510-19-01)  
(Lake County Ref. No. 23-744)**

This contract is for the Adoption and Amendment by Lake County, Florida, a political subdivision of the State of Florida (COUNTY), by and through its Board of County Commissioners, of the contract for Liquefied Petroleum (LP) Gas, (the "DMS Contract") between the State of Florida Department of Management Services (the "FL-DMS"), an agency of the State of Florida, and Suburban Propane, L.P., a foreign limited partnership authorized to do business in the State of Florida (CONTRACTOR).

**WITNESSETH**

**WHEREAS**, on or about July 8, 2019, after complying with a competitive procurement process, the FL-DMS entered into the DMS Contract (No. 15111510-19-01), for Liquefied Petroleum (LP) Gas, as later amended, incorporated herein as **Exhibit A** ; and

**WHEREAS**, the COUNTY is an Eligible User of the DMS Contract, as defined in Chapter 60A-1.001(2), F.A.C.; and

**WHEREAS**, the CONTRACTOR is willing to honor the terms, conditions, and pricing of the DMS Contract to provide liquefied petroleum gas to the COUNTY; and

**WHEREAS**, the COUNTY and the CONTRACTOR want to enter this Adoption and Amendment to specify the application of the DMS Contract to the COUNTY and comply with the COUNTY'S procedures; and

**WHEREAS**, executing this Adoption and Amendment is in the best interests of the COUNTY and the residents of Lake County.

**NOW, THEREFORE**, the parties agree as follows:

1. **Legal Findings of Fact.** The foregoing recitals are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Adoption and Amendment upon adoption hereof.

2. **Term.**

A. This Adoption and Amendment shall become effective on the date under the last signature (the "Effective Date"). This Agreement shall expire on October 29, 2025, in alignment with the expiration of the DMS Contract on the same date. Should the DMS Contract be further extended by FL-DMS, the COUNTY reserves the right to extend this contract for the same term as the underlying DMS Contract. Extension and renewal are contingent upon mutual written agreement. Continuation of the Agreement beyond the initial period, and any option subsequently exercised, is a COUNTY prerogative, and not a right of CONTRACTOR. This prerogative will be exercised only when such continuation is clearly in the best interest of the COUNTY.

3. **Payment and Invoices.**

A. The COUNTY will make payment on all undisputed invoices in accordance with the Local Government Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.

B. CONTRACTOR will submit an original invoice to the COUNTY after each service has been completed, or on such other basis as the parties mutually to in writing.

C. CONTRACTOR will honor the pricing and terms set forth in the DMS Contract as full and complete payment for services rendered to the COUNTY under this Adoption and Amendment, attached hereto and incorporated herein as **Exhibit B**.

**4. Public Records.**

A. All electronic files, audio and video recordings, and all papers pertaining to any activity performed by the CONTRACTOR for or on behalf of the COUNTY will be the property of the COUNTY and will be turned over to the COUNTY upon request. In accordance with Chapter 119, Florida Statutes, each file and all papers pertaining to any activities performed for or on behalf of the COUNTY are public records available for inspection by any person even if the file or paper resides in the CONTRACTOR'S office or facility. The CONTRACTOR will maintain the files and papers for not less than three (3) complete calendar years after the Service has been completed or terminated, or in accordance with any grant requirements, whichever is longer. Prior to the close out of this Agreement, the CONTRACTOR will appoint a records custodian to handle any records request and provide the custodian's name and telephone numbers to the COUNTY'S Project Manager.

B. Pursuant to Section 119.0701, Florida Statutes, CONTRACTOR will comply with the Florida Public Records' laws, and will:

i. Keep and maintain public records required by the COUNTY to perform the services identified herein.

ii. Upon request from the COUNTY'S custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law.

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the COUNTY.

iv. Upon completion of the Contract, transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the service. If CONTRACTOR transfers all public records to the COUNTY upon completion of the contract, CONTRACTOR will destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Agreement, CONTRACTOR will meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

**C. IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT LAKE COUNTY OFFICE OF PROCUREMENT SERVICES, 315 WEST MAIN STREET, P.O. BOX 7800, TAVARES, FL 32778 OR AT 352-343-9424 OR VIA EMAIL AT [PURCHASING@LAKECOUNTYFL.GOV](mailto:PURCHASING@LAKECOUNTYFL.GOV).**

**ADOPTION AND AMENDMENT OF THE STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES CONTRACT FOR LIQUIFIED PETROLEUM (LP) GAS WITH SUBURBAN PROPANE, L.P. (DMS CONTRACT NO. 15111510-19-01) (LAKE CO. REF. 23-744)**

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D. Failure to comply with this subsection will be deemed a breach of the Contract and enforceable as set forth in Section 119.0701, Florida Statutes.

E. Unless otherwise provided, CONTRACTOR shall maintain substantiating records as required by the State of Florida, General Records Schedule GS1-SL ("Schedule") for State and Local Government Agencies. If CONTRACTOR receives notification of a dispute or the commencement of litigation regarding the Project within the time specified in the Schedule, the CONTRACTOR shall continue to maintain all service records until final resolution of the dispute or litigation.

F. Requests to inspect or copy public records relating to the COUNTY's Contract for services must be made directly to the COUNTY. If CONTRACTOR receives any such request, CONTRACTOR shall instruct the requestor to contact the COUNTY. If the COUNTY does not possess the records requested, the COUNTY shall immediately notify the CONTRACTOR of such request, and the CONTRACTOR must provide the records to the COUNTY or otherwise allow the records to be inspected or copied within a reasonable time.

G. CONTRACTOR acknowledges that failure to provide the public records to the COUNTY within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. CONTRACTOR further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the COUNTY. CONTRACTOR shall indemnify, defend, and hold the COUNTY harmless for and against any and all claims, damage awards, and causes of action arising from the CONTRACTOR's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by CONTRACTOR's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorney's fees and costs arising therefrom. CONTRACTOR authorizes COUNTY to seek declaratory, injunctive, or other appropriate relief against CONTRACTOR from a Circuit Court in Lake County on an expedited basis to enforce the requirements of this section.

**5. Application to Lake County.** All terms applicable to "Department" or "Customer" in the DMS Contract shall apply to the COUNTY and all references to "Department" or "Customer" in the DMS Contract will be construed as to referring to the COUNTY under this Adoption and Amendment. Where the DMS Contract refers to "State of Florida" as the procuring agency, it shall be construed to refer to the "COUNTY" under this Adoption and Amendment.

**6. Notices.** The CONTRACTOR shall provide any notices to the COUNTY as required under this Adoption and Amendment to the following locations:

County Manager  
Lake County Administration Building  
315 West Main Street, Suite 308  
Post Office Box 7800  
Tavares, Florida 32778-7800

*With a copy to:*

County Attorney  
Lake County Administration Building  
315 West Main Street, Suite 335  
Post Office Box 7800  
Tavares, Florida 32778-7800

ADOPTION AND AMENDMENT OF THE STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES CONTRACT  
FOR LIQUIFIED PETROLEUM (LP) GAS WITH SUBURBAN PROPANE, L.P. (DMS CONTRACT NO. 15111510-19-01)  
(LAKE CO. REF. 23-744)

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7. **Insurance.** CONTRACTOR shall, at minimum, have and maintain the types and amounts of insurance outlined in the DMS Contract; which shall be supplemented as necessary to meet the COUNTY's minimum insurance requirements, included in **Exhibit C**.

A. Paragraph 7.3 of Amendment No. 1 to the DMS Contract will be amended to read as follows to list the COUNTY as an additional insured:

Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND  
THE BOARD OF COUNTY COMMISSIONERS.  
P.O. BOX 7800  
TAVARES, FL 32778-7800

8. **Effect of Amendment.** All other provisions of the contract and any amendments thereto will remain in full force and effect unless otherwise formally amended by the parties. To the extent this Adoption and Amendment conflicts with the DMS Contract, this Adoption and Amendment will govern.

9. **Law, Jurisdiction, Venue, Waiver of Jury Trial.** This Contract is governed by the laws of the State of Florida. Any and all legal action arising out of this contract will have its venue in Lake County and the Contract will be interpreted according to the laws of Florida. Arbitration will not be used as a means for dispute resolution. BOTH PARTIES WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL IN ANY CIVIL LITIGATION MATTER ARISING FROM THIS ADOPTION AND AMENDMENT.

10. **Scope of Contract for Adoption & Amendment.** This Adoption and Amendment is intended by the parties to be the final expression of their agreement, and it constitutes the full and entire understanding between the parties with respect to the subject of this Adoption and Amendment, notwithstanding any representations, statements, or agreements to the contrary previously made. Any items not covered under this Adoption and Amendment will need to be added via written addendum, and pricing negotiated based on final specifications. This Adoption and Amendment includes the following terms and attachments, all of which are incorporated herein:

Exhibit A (Composite).....State of Florida, Department of Management Services  
State Term Contract No. 15111510-19-01, Amendment  
No. 1 (Contract Renewal) dated December 8, 2021 (24  
pages) and Original, dated July 8, 2019, (28 pages).  
Exhibit B .....DMS Contract Pricing Sheet (3 pages).  
Exhibit C .....Minimum Insurance Requirements (2 pages).

**IN WITNESS WHEREOF**, the parties have signed this contract through their duly authorized representatives on the date under each signature.

**CONTRACTOR**

SUBURBAN PROPANE, L.P.

By: Sam Hodges  
Sam Hodges, General Manager

This 7th day of July, 2023.

**ADOPTION AND AMENDMENT OF THE STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES CONTRACT  
FOR LIQUIFIED PETROLEUM (LP) GAS WITH SUBURBAN PROPANE, L.P. (DMS CONTRACT NO. 15111510-19-01)  
(LAKE CO. REF. 23-744)**

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**COUNTY**

LAKE COUNTY, FLORIDA, a political subdivision of  
the State of Florida, by and through its Office of  
Procurement Services

  
\_\_\_\_\_  
Ron Falanga, Director

This 17<sup>th</sup> day of July, 2023.

Approved as to form and legality:

  
\_\_\_\_\_  
Melanie Marsh  
County Attorney





**AMENDMENT NO.: 1**  
Contract Renewal  
Contract No.: 15111510-19-01  
Contract Name: Liquefied Petroleum (LP) Gas

**This Amendment** ("Amendment"), effective upon execution by all Parties, to the Liquefied Petroleum (LP) Gas Contract No. 15111510-19-01 ("Contract"), is made by and between the State of Florida, Department of Management Services ("Department"), and Suburban Propane, L.P. ("Contractor"), collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Contract unless otherwise defined herein.

**WHEREAS** the Contract was entered into by the Parties on July 8, 2019;

**WHEREAS** the Parties agreed that the Contract may be amended by mutual agreement as provided in section 6.9, Modification and Severability, of Attachment C, Special Contract Conditions; and

**WHEREAS** the Parties agree to renew the Contract as provided in section II., Renewal Term, of the Contract.

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

**I. Contract Amendment.**

- a) The Contract is amended to replace Attachment C, Special Contract Conditions, in its entirety with the revised Attachment C, Special Contract Conditions, which is attached hereto and hereby incorporated by reference.
- b) The Contract is amended to add Attachment D, Additional Special Contract Conditions, which is attached hereto and hereby incorporated by reference.
- c) Section III, Contract, of the Contract is deleted in its entirety and replaced with the following:

**III. Contract**

As used in this document, "Contract" (whether or not capitalized) shall, unless the context requires otherwise, include this document and all incorporated Attachments, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Contract must be in writing and signed by all Parties.

All Attachments listed below are incorporated in their entirety into, and form part of, this Contract. The Contract Attachments shall have priority in the order listed below:

**a.) Contract**

Liquefied Petroleum  
State Term Contract No.: 15111510-19-01

Page 1 of 2



**AMENDMENT NO.: 1**  
Contract Renewal  
Contract No.: 15111510-19-01  
Contract Name: Liquefied Petroleum (LP) Gas

- b.) Attachment A, Scope of Work
- c.) Attachment B, Markup Sheet
- d.) Attachment D, Additional Special Contract Conditions
- e.) Attachment C, Special Contract Conditions
- f.) The Contractor's Response to the solicitation

**II. Contract Renewal.** Pursuant to sections II, Renewal Term of the State Term Contract the Contract is renewed for a period of three years pursuant to the same terms and conditions, except as amended herein, with a new Contract expiration date of October 29, 2025.

**III. Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**IV. Warranty of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

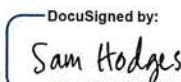
**V. Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect. This Amendment is effective when signed by both Parties.

**State of Florida,  
Department of Management Services**

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

**Name:** J. Todd Inman  
**Title:** Secretary  
**Date:**

**Contractor:**  
Suburban Propane, L.P.

**By:**  \_\_\_\_\_  
BB0C3C6C160840C...

**Name:** Sam Hodges  
**Title:** General Manager  
**Date:** 11/10/2021 | 2:32 PM EST

Liquefied Petroleum  
State Term Contract No.: 15111510-19-01

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Department of  
**MANAGEMENT  
SERVICES**

We serve those who serve Florida

**AMENDMENT NO.: 1**

Contract Renewal

Contract No.: 15111510-19-01

Contract Name: Liquefied Petroleum (LP) Gas

- b.) Attachment A, Scope of Work
- c.) Attachment B, Markup Sheet
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**II. Contract Renewal.** Pursuant to sections II, Renewal Term of the State Term Contract the Contract is renewed for a period of three years pursuant to the same terms and conditions, except as amended herein, with a new Contract expiration date of October 29, 2025.

**III. Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**IV. Warranty of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**V. Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect. This Amendment is effective when signed by both Parties.

State of Florida,  
Department of Management Services

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

Name: J. Todd Inman  
Title: Secretary  
Date: 12/8/2021

Contractor:  
Suburban Propane, L.P.

DocuSigned by:

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

Name: Sam Hodges  
Title: General Manager  
Date: 11/10/2021 | 2:32 PM EST

Liquefied Petroleum  
State Term Contract No.: 15111510-19-01

Page 2 of 2



**Attachment C**  
**SPECIAL CONTRACT CONDITIONS**  
**JULY 1, 2019 VERSION**

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**In accordance with Rule 60A-1.002(7), F.A.C., Form PUR 1000 is included  
herein by reference but is superseded in its entirety by these Special  
Contract Conditions.**

## **SECTION 1. DEFINITION.**

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes (F.S.), and Rule Chapter 60A-1, Florida Administrative Code (F.A.C.):

### **1.1 Customer.**

The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

## **SECTION 2. CONTRACT TERM AND TERMINATION.**

### **2.1 Initial Term.**

The initial term will begin on the date set forth in the Contract documents or on the date the Contract is signed by all Parties, whichever is later.

### **2.2 Renewal.**

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(13), F.S.

### **2.3 Suspension of Work and Termination.**

#### **2.3.1 Suspension of Work.**

The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. The Customer may suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of the suspension. After receiving a suspension notice, the Contractor must comply with the notice and will cease the performance of the Contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation. The Contractor will not resume performance of the Contract or purchase order until so authorized by the Department.

#### **2.3.2 Termination for Convenience.**

The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

#### **2.3.3 Termination for Cause.**

If the performance of the Contractor is not in compliance with the Contract requirements or the Contractor has defaulted, the Department may:

- (a) immediately terminate the Contract;
- (b) notify the Contractor of the noncompliance or default, require correction, and specify the date by which the correction must be completed before the Contract is terminated; or
- (c) take other action deemed appropriate by the Department.

### **SECTION 3. PAYMENT AND FEES.**

#### **3.1 Pricing.**

The Contractor will not exceed the pricing set forth in the Contract documents.

#### **3.2 Price Decreases.**

The following price decrease terms will apply to the Contract:

**3.2.1 Quantity Discounts.** Contractor may offer additional discounts for one-time delivery of large single orders;

**3.2.2 Preferred Pricing.** The Contractor guarantees that the pricing indicated in this Contract is a maximum price. Additionally, Contractor's pricing will not exceed the pricing offered under comparable contracts. Comparable contracts are those that are similar in size, scope, and terms. In compliance with section 216.0113, F.S., Contractor must annually submit an affidavit from the Contractor's authorized representative attesting that the Contract complies with this clause.

**3.2.3 Sales Promotions.** In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. The Contractor must submit documentation identifying the proposed: (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

#### **3.3 Payment Invoicing.**

The Contractor will be paid upon submission of invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain sufficient detail for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

#### **3.4 Purchase Order.**

A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract and, if applicable, the Contractor must provide commodities or contractual services pursuant to purchase orders. Purchase orders issued pursuant to the Contract must be received by the Contractor no later than the close of business on the last day of the Contract's term. The Contractor is required to accept timely purchase orders specifying delivery schedules that extend beyond the Contract term even when such extended delivery will occur after expiration of the Contract. Purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the Contract shall survive the termination or expiration of the Contract and apply to the Contractor's performance. The duration of purchase orders for recurring deliverables shall not exceed the expiration of the Contract by more than twelve months. Any purchase order terms and conditions conflicting with these Special Contract Conditions shall not become a part of the Contract.

#### **3.5 Travel.**

Travel expenses are not reimbursable unless specifically authorized by the Customer in writing and may be reimbursed only in accordance with section 112.061, F.S.

### 3.6 Annual Appropriation.

Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

### 3.7 Transaction Fees.

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), F.S. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, F.A.C., or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

### 3.8 Taxes.

Taxes, customs, and tariffs on commodities or contractual services purchased under the Contract will not be assessed against the Customer or Department unless authorized by Florida law.

### 3.9 Return of Funds.

Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor. The Contractor must return any overpayment within forty (40) calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

## **SECTION 4. CONTRACT MANAGEMENT.**

### 4.1 Composition and Priority.

The Contractor agrees to provide commodities or contractual services to the Customer as specified in the Contract. Additionally, the terms of the Contract supersede the terms of all prior agreements between the Parties on this subject matter.

### 4.2 Notices.

All notices required under the Contract must be delivered to the designated Contract Manager in a manner identified by the Department.

### 4.3 Department's Contract Manager.

The Department's Contract Manager, who is primarily responsible for the Department's oversight of the Contract, will be identified in a separate writing to the Contractor upon Contract signing in the following format:

Department's Contract Manager Name

Department's Name  
Department's Physical Address  
Department's Telephone #  
Department's Email Address

If the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

#### 4.4 Contractor's Contract Manager.

The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Contract performance, will be identified in a separate writing to the Department upon Contract signing in the following format:

Contractor's Contract Manager Name  
Contractor's Name  
Contractor's Physical Address  
Contractor's Telephone #  
Contractor's Email Address

If the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

#### 4.5 Diversity.

##### 4.5.1 Office of Supplier Diversity.

The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at [osdinfo@dms.myflorida.com](mailto:osdinfo@dms.myflorida.com).

##### 4.5.2 Diversity Reporting.

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each agency purchasing under the Contract.

#### 4.6 RESPECT.

Subject to the agency determination provided for in section 413.036, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES;



AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about RESPECT and the commodities or contractual services it offers is available at <https://www.respectofflorida.org>.

#### 4.7 PRIDE.

Subject to the agency determination provided for in sections 287.042(1) and 946.515, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at <https://www.pride-enterprises.org>.

### **SECTION 5. COMPLIANCE WITH LAWS.**

#### 5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c), and (g), F.S., are hereby incorporated by reference.

#### 5.2 Dispute Resolution, Governing Law, and Venue.

Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Contract Manager shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Contract or any other form of dispute resolution. The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives all privileges and rights relating to venue it may have under Chapter 47, F.S., and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to, those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

#### 5.3 Department of State Registration.

Consistent with Title XXXVI, F.S., the Contractor and any subcontractors that assert status, other than a sole proprietor, must provide the Department with conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity.

#### 5.4 Suspended, Convicted, and Discriminatory Vendor Lists.

In accordance with sections 287.042, 287.133, and 287.134, F.S., an entity or affiliate who is on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List during the term of the Contract.

#### 5.5 Scrutinized Companies - Termination by the Department.

The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

#### 5.6 Cooperation with Inspector General and Records Retention.

Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

### **SECTION 6. MISCELLANEOUS.**

#### 6.1 Subcontractors.

The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all its subcontracted work. The Department supports diversity in its procurements and contracts, and requests that the Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The

Contractor may contact the OSD at [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com) for information on certified small business enterprises available for subcontracting opportunities.

#### 6.2 Assignment.

The Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of the Department. However, the Contractor may waive its right to receive payment and assign same upon notice to the Department. In the event of any assignment, the Contractor remains responsible for performance of the Contract, unless such responsibility is expressly waived by the Department. The Department may assign the Contract with prior written notice to the Contractor.

#### 6.3 Independent Contractor.

The Contractor and its employees, agents, representatives, and subcontractors are independent contractors and not employees or agents of the State of Florida and are not entitled to State of Florida benefits. The Department and Customer will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all its subcontracts under the Contract.

#### 6.4 Inspection and Acceptance of Commodities.

##### 6.4.1 Risk of Loss.

Matters of inspection and acceptance are addressed in section 215.422, F.S. Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's bill of lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's bill of lading and damage inspection report.

##### 6.4.2 Rejected Commodities.

When a Customer rejects a commodity, Contractor will remove the commodity from the premises within ten (10) calendar days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within ten (10) calendar days will be deemed abandoned by the Contractor, and the Customer will have the right to dispose of such commodities. Contractor will reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

#### 6.5 Safety Standards.

Performance of the Contract for all commodities or contractual services must comply with requirements of the Occupational Safety and Health Act and other applicable State of Florida and federal requirements.

#### 6.6 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

**6.7 Time is of the Essence.**

Time is of the essence regarding every obligation of the Contractor under the Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

**6.8 Waiver.**

The delay or failure by the Department or the Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

**6.9 Modification and Severability.**

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

**6.10 Cooperative Purchasing.**

Pursuant to their own governing laws, and subject to the agreement of the Contractor, governmental entities that are not Customers may make purchases under the terms and conditions contained herein, if agreed to by Contractor. Such purchases are independent of the Contract between the Department and the Contractor, and the Department is not a party to these transactions. Agencies seeking to make purchases under this Contract are required to follow the requirements of Rule 60A-1.045(5), F.A.C.

**SECTION 7. LIABILITY AND INSURANCE.**

**7.1 Workers' Compensation Insurance.**

The Contractor shall maintain workers' compensation insurance as required under the Florida Workers' Compensation Law or the workers' compensation law of another jurisdiction where applicable. The Contractor must require all subcontractors to similarly provide workers' compensation insurance for all of the latter's employees. In the event work is being performed by the Contractor under the Contract and any class of employees performing the work is not protected under Workers' Compensation statutes, the Contractor must provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of employees not otherwise protected.

**7.2 General Liability Insurance.**

The Contractor must secure and maintain Commercial General Liability Insurance, including bodily injury, property damage, products, personal and advertising injury, and completed operations. This insurance must provide coverage for all claims that may arise from performance of the Contract or completed operations, whether by the Contractor or anyone directly or indirectly employed by the Contractor. Such insurance must include the State of Florida as an additional insured for the entire length of the resulting contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the resulting contract.

**7.3 Florida Authorized Insurers.**

All insurance shall be with insurers authorized and eligible to transact the applicable line of insurance business in the State of Florida. The Contractor shall provide Certification(s) of Insurance evidencing that all appropriate coverage is in place and showing the Department to be an additional insured.

#### 7.4 Performance Bond.

Unless otherwise prohibited by law, the Department may require the Contractor to furnish, without additional cost to the Department, a performance bond or irrevocable letter of credit or other form of security for the satisfactory performance of work hereunder. The Department shall determine the type and amount of security.

#### 7.5 Indemnification.

To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold the Customer and the State of Florida, its officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the Contractor, its employees, agents, subcontractors, assignees, or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Customer. The Contract does not constitute a waiver of sovereign immunity or consent by the Customer or the State of Florida or its subdivisions to suit by third parties. Without limiting this indemnification, the Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

#### 7.6 Limitation of Liability.

Unless otherwise specifically enumerated in the Contract or in the purchase order, neither the Department nor the Customer shall be liable for special, indirect, punitive, or consequential damages, including lost data or records (unless the Contract or purchase order requires the Contractor to back-up data or records), even if the Department or Customer has been advised that such damages are possible. Neither the Department nor the Customer shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Department or Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

### **SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT, AND INTELLECTUAL PROPERTY.**

#### 8.1 Public Records.

##### 8.1.1 Termination of Contract.



The Department may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F. S., made or received by the Contractor in conjunction with the Contract.

#### 8.1.2 Statutory Notice.

Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS, AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.
- (d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

#### 8.2 Protection of Trade Secrets or Otherwise Confidential Information.

8.2.1 Contractor Designation of Trade Secrets or Otherwise Confidential Information. If the Contractor considers any portion of materials to be trade secret under section 688.002 or 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as trade secret or otherwise confidential when submitted to the Department. The Contractor will be

responsible for responding to and resolving all claims for access to Contract-related materials it has designated trade secret or otherwise confidential.

#### 8.2.2 Public Records Requests.

If the Department receives a public records request for materials designated by the Contractor as trade secret or otherwise confidential under Florida or federal law, the Contractor will be responsible for taking the appropriate legal action in response to the request. If the Contractor fails to take appropriate and timely action to protect the materials designated as trade secret or otherwise confidential, the Department will provide the materials to the requester.

#### 8.2.3 Indemnification Related to Confidentiality of Materials.

The Contractor will protect, defend, indemnify, and hold harmless the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of materials as trade secret or otherwise confidential.

#### 8.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers, and documents that were made in relation to this Contract. The Contractor must retain all documents related to the Contract for five (5) years after expiration of the Contract or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at the Department of State's Records Management website.

#### 8.4 Intellectual Property.

##### 8.4.1 Ownership.

Unless specifically addressed otherwise in the Contract, the State of Florida shall be the owner of all intellectual property rights to all property created or developed in connection with the Contract.

##### 8.4.2 Patentable Inventions or Discoveries.

Any inventions or discoveries developed in the course, or as a result, of services in connection with the Contract that are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer of any inventions or discoveries developed or made through performance of the Contract, and such inventions or discoveries will be referred to the Florida Department of State for a determination on whether patent protection will be sought. The State of Florida will be the sole owner of all patents resulting from any invention or discovery made through performance of the Contract.

##### 8.4.3 Copyrightable Works.

Contractor must notify the Department or State of Florida of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed through performance of the Contract are owned solely by the State of Florida.

### **SECTION 9. DATA SECURITY.**

The Contractor will maintain the security of State of Florida data including, but not limited to, maintaining a secure area around any displayed visible data and ensuring data is stored and secured when not in use. The Contractor and subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside the United States due to Contractor's action or inaction. In the event of a security breach involving State of Florida data, the Contractor shall give notice to the Customer and the Department within one business day. "Security breach" for purposes of this section will refer to a confirmed event that compromises the confidentiality, integrity, or availability of data. Once a data breach has been contained, the Contractor must provide the Department with a post-incident report documenting all containment, eradication, and recovery measures taken. The Department reserves the right in its sole discretion to enlist a third party to audit Contractor's findings and produce an independent report, and the Contractor will fully cooperate with the third party. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

## **SECTION 10. GRATUITIES, LOBBYING, AND COMMUNICATIONS.**

### **10.1 Gratuities.**

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer's or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

### **10.2 Lobbying.**

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not to be used for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to section 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract after the Contract is executed and during the Contract term.

### **10.3 Communications.**

#### **10.3.1 Contractor Communication or Disclosure.**

The Contractor shall not make any public statements, press releases, publicity releases, or other similar communications concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, without first notifying the Customer's Contract Manager and securing the Customer's prior written consent.

#### **10.3.2 Use of Customer Statements.**

The Contractor shall not use any statement attributable to the Customer or its employees for the Contractor's promotions, press releases, publicity releases, marketing, corporate communications, or other similar communications, without first notifying the Customer's Contract Manager and securing the Customer's prior written consent.

## **SECTION 11. CONTRACT MONITORING.**

### **11.1 Performance Standards.**

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

### **11.2 Performance Deficiencies and Financial Consequences of Non-Performance.**

#### **11.2.1 Proposal of Corrective Action Plan.**

In addition to the processes set forth in the Contract (e.g., service level agreements), if the Department or Customer determines that there is a performance deficiency that requires correction by the Contractor, then the Department or Customer will notify the Contractor. The correction must be made within a time-frame specified by the Department or Customer. The Contractor must provide the Department or Customer with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Department or Customer.

#### **11.2.2 Retainage for Unacceptable Corrective Action Plan or Plan Failure.**

If the corrective action plan is unacceptable to the Department or Customer, or implementation of the plan fails to remedy the performance deficiencies, the Department or Customer will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Department or Customer for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited to compensate the Department or Customer for the performance deficiencies.

### **11.3 Performance Delay.**

#### **11.3.1 Notification.**

The Contractor will promptly notify the Department or Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or the Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or the Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

#### **11.3.2 Liquidated Damages.**

The Contractor acknowledges that delayed performance will damage the Department/Customer, but by their nature such damages are difficult to ascertain. Accordingly, the liquidated damages provisions stated in the Contract documents will apply. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

### **11.4 Force Majeure, Notice of Delay, and No Damages for Delay.**

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay, and the delay is due directly to fire, explosion, earthquake, windstorm, flood, radioactive or toxic chemical hazard, war, military hostilities, terrorism, civil emergency, embargo, riot, strike, violent civil unrest, or other similar cause wholly beyond the Contractor's reasonable control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. The foregoing does not excuse delay which could have been avoided if the Contractor implemented any risk mitigation required by the Contract. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that created or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers and the Department with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

## **SECTION 12. CONTRACT AUDITS.**

### **12.1 Performance or Compliance Audits.**

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in accordance with section 5.6, the State of Florida's Chief Financial Officer, the Office of the Auditor General also have authority to perform audits and inspections.



### 12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained in accordance with section 8.3 of these Special Contract Conditions. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, the State of Florida's Chief Financial Officer, or the Office of the Auditor General.

## **SECTION 13. BACKGROUND SCREENING AND SECURITY.**

### 13.1 Background Check.

The Department or Customer may require the Contractor to conduct background checks of its employees, agents, representatives, and subcontractors as directed by the Department or Customer. The cost of the background checks will be borne by the Contractor. The Department or Customer may require the Contractor to exclude the Contractor's employees, agents, representatives, or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. Upon the request of the Department or Customer, the Contractor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.

### 13.2 E-Verify.

The Contractor must use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five (5) calendar days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five (5) calendar days of notice of Contract award and provide the Contract Manager a copy of its MOU within five (5) calendar days of Contract execution. The link to E-Verify is <https://www.uscis.gov/e-verify>. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five (5) calendar days to the Contract Manager identifying the new hire with its E-Verify case number.

### 13.3 Disqualifying Offenses.

If at any time it is determined that a person has been found guilty of a misdemeanor or felony offense as a result of a trial or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, within the last six (6) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida data or directly performing services under the Contract. The disqualifying offenses are as follows:

- (a) Computer related crimes;
- (b) Information technology crimes;

- (c) Fraudulent practices;
- (d) False pretenses;
- (e) Frauds;
- (f) Credit card crimes;
- (g) Forgery;
- (h) Counterfeiting;
- (i) Violations involving checks or drafts;
- (j) Misuse of medical or personnel records; and
- (k) Felony theft.

#### 13.4 Confidentiality.

The Contractor must maintain confidentiality of all confidential data, files, and records related to the commodities or contractual services provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

### **SECTION 14. WARRANTY OF CONTRACTOR'S ABILITY TO PERFORM.**

The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the Suspended Vendor List, Convicted Vendor List, or the Discriminatory Vendor List, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of the Contract.



Attachment D

**ADDITIONAL SPECIAL CONTRACT CONDITIONS**

- A. Special Contract Conditions revisions. The corresponding subsections of the Special Contract Conditions referenced below are replaced in their entirety with the following:

**2.2 Renewal.**

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(14), F.S.

**3.7 Transaction Fees.**

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(24), F.S. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, F.A.C., or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

**5.1 Conduct of Business.**

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c) and (g), F.S., are hereby incorporated by reference.

Nothing contained within this Contract shall be construed to prohibit the Contractor from disclosing information relevant to performance of the Contract or purchase order to members or staff of the Florida Senate or Florida House of Representatives.

Pursuant to section 287.057(26), F.S., the Contractor shall answer all questions of, and ensure a representative will be available to, a continuing oversight team.

The Contractor will comply with all applicable disclosure requirements set forth in section 286.101, F.S. In the event the Department of Financial Services issues the Contractor a final order determining a third or subsequent violation pursuant to section 286.101(7)(c), F.S., the

Contractor shall immediately notify the Department and applicable Customers and shall be disqualified from Contract eligibility.

#### 5.4 Convicted, Discriminatory, Antitrust Violator, and Suspended Vendor Lists.

In accordance with sections 287.133, 287.134, and 287.137, F.S., the Contractor is hereby informed of the provisions of sections 287.133(2)(a), 287.134(2)(a), and 287.137(2)(a), F.S. For purposes of this Contract, a person or affiliate who is on the Convicted Vendor List, the Discriminatory Vendor List, or the Antitrust Violator Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Convicted Vendor List, the Discriminatory Vendor List, or the Antitrust Violator Vendor List during the term of the Contract.

In accordance with section 287.1351, F.S., a vendor placed on the Suspended Vendor List may not enter into or renew a contract to provide any goods or services to an agency after its placement on the Suspended Vendor List.

A firm or individual placed on the Suspended Vendor List pursuant to section 287.1351, F.S., the Convicted Vendor List pursuant to section 287.133, F.S., the Antitrust Violator Vendor List pursuant to section 287.137, F.S., or the Discriminatory Vendor List pursuant to section 287.134, F.S., is immediately disqualified from Contract eligibility.

#### 5.6 Cooperation with Inspector General and Records Retention.

Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration or termination of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

#### 8.1.1 Termination of Contract.

The Department may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F.S., made or received by the Contractor in conjunction with the Contract unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.071(1), F.S.

#### 8.1.2 Statutory Notice.

Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:



**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT [PUBLICRECORDS@DMS.FL.GOV](mailto:PUBLICRECORDS@DMS.FL.GOV), (850) 487-1082 OR 4050 ESPLANADE WAY, SUITE 160, TALLAHASSEE, FLORIDA 32399-0950.**

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.
- (d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

#### 12.1 Performance or Compliance Audits.

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in accordance with section 5.6, the State of Florida's Chief Financial Officer, and the Office of the Auditor General shall also have authority to perform audits and inspections.



### 13.2 E-Verify.

The Contractor and its subcontractors have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees in accordance with section 448.095, F.S. By executing this Contract, the Contractor certifies that it is registered with, and uses, the E-Verify system for all newly hired employees in accordance with section 448.095, F.S. The Contractor must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of section 448.095, F.S., and maintain a copy of such affidavit for the duration of the Contract. The Contractor shall provide a copy of its DHS Memorandum of Understanding (MOU) to the Department's Contract Manager within five days of Contract execution.

This section serves as notice to the Contractor regarding the requirements of section 448.095, F.S., specifically sub-paragraph (2)(c)1, and the Department's obligation to terminate the Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. If terminated for such reason, the Contractor will not be eligible for award of a public contract for at least one year after the date of such termination. The Department will promptly notify the Contractor and order the immediate termination of the contract between the Contractor and a subcontractor performing work on its behalf for this Contract should the Department have a good faith belief that the subcontractor has knowingly violated section 448.09(1), F.S.

- B. Special Contract Conditions additions. The following subsection is added to the Special Contract Conditions:

### 12.3 Document Inspection.

In accordance with section 216.1366, F.S., the Department or a state agency is 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 or state agency 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 or a state agency within 10 Business Days after the request is made.



**State Term Contract  
No. 15111510-19-01  
For  
Liquefied Petroleum (LP) Gas**

This Contract is between the State of Florida, Department of Management Services (Department), an agency of the State of Florida and Suburban Propane, L.P. (Contractor), collectively referred to herein as the "Parties."

Accordingly, the Parties agree as follows:

**I. Initial Contract Term.**

The Initial Contract Term shall be for three (3) years. The Initial Contract Term shall begin on October 30, 2019. The Contract shall expire on October 29, 2022, unless terminated earlier in accordance the Special Contract Conditions.

**II. Renewal Term.**

Upon mutual written agreement, the Parties may renew this Contract, in whole or in part, for a Renewal Term not to exceed the Initial Contract Term, pursuant to the incorporated Special Contract Conditions.

**III. Contract.**

As used in this document, "Contract" (whether or not capitalized) shall, unless the context requires otherwise, include this document and all incorporated Attachments, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Contract must be in writing and signed by all Parties.

All Attachments listed below are incorporated in their entirety into, and form part of this Contract. The Contract Attachments shall have priority in the order listed:

- a) Contract
- b) Attachment A: Scope of Work;
- c) Attachment B: Markup Sheet;
- d) Attachment C: Special Contract Conditions;
- e) The Contractor's Response to this solicitation.

**IV. Amendments**

No oral modifications to this Contract are permitted. All modifications to this Contract must be in writing and signed by both parties.

Notwithstanding the order of precedence listed in section III, amendments executed after the Contract is executed may expressly change the provisions of the Contract. If they do so

State Term Contract No. 15111510-19-01  
For  
**Liquefied Petroleum (LP) Gas**

expressly, then the most recent amendment will take precedence over anything else that is part of the Contract.

**V. Contract Management.**

**Department's Contract Manager:**

Frank Miller  
Division of State Purchasing  
Florida Department of Management Services  
4050 Esplanade Way, Suite 360  
Tallahassee, Florida 32399-0950  
Telephone: (850) 488-8855  
Email: [Frank.Miller@dms.myflorida.com](mailto:Frank.Miller@dms.myflorida.com)

**Contractor's Contract Manager:**

Sam Hodges  
Suburban Propane, L.P.  
6991 15<sup>th</sup> St E  
Sarasota, FL 34243  
Telephone: (941) 755-3761  
Email: [shodges@suburbanpropane.com](mailto:shodges@suburbanpropane.com)

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract, which includes the incorporated Attachments, to be executed by their undersigned officials as duly authorized. This Contract is not valid and binding until signed and dated by the Parties.

**Suburban Propane, L.P.**

**STATE OF FLORIDA,  
DEPARTMENT OF  
MANAGEMENT SERVICES**

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
DATE:

\_\_\_\_\_  
DATE:

State Term Contract No. 15111510-19-01  
For  
Liquefied Petroleum (LP) Gas

expressly, then the most recent amendment will take precedence over anything else that is part of the Contract.

**V. Contract Management.**

**Department's Contract Manager:**

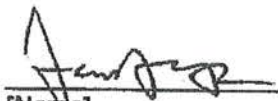
Frank Miller  
Division of State Purchasing  
Florida Department of Management Services  
4050 Esplanade Way, Suite 360  
Tallahassee, Florida 32399-0950  
Telephone: (850) 488-8855  
Email: [Frank.Miller@dms.myflorida.com](mailto:Frank.Miller@dms.myflorida.com)

**Contractor's Contract Manager:**

Sam Hodges  
Suburban Propane, L.P.  
6991 15<sup>th</sup> St E  
Sarasota, FL 34243  
Telephone: (941) 755-3761  
Email: [shodges@suburbanpropane.com](mailto:shodges@suburbanpropane.com)

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract, which includes the incorporated Attachments, to be executed by their undersigned officials as duly authorized. This Contract is not valid and binding until signed and dated by the Parties.

**Suburban Propane, L.P.**

  
\_\_\_\_\_  
[Name]

6/28/19  
\_\_\_\_\_  
DATE:

**STATE OF FLORIDA  
DEPARTMENT OF  
MANAGEMENT SERVICES**

  
\_\_\_\_\_  
[Name]

6/28/19  
\_\_\_\_\_  
DATE:

**Attachment A**  
**ITB No. 19-15111510-P**

**Scope of Work**

**1. Purpose Statement**

The purpose of this contract is to establish a State Term Contract (STC) for the purchase and delivery of liquefied petroleum gas (LPG), also referred to as propane, and for the rental and maintenance of LPG tanks.

**2. Commodity Code List**

<b>UNSPSC</b>	<b>Commodity Description</b>
15111501	Propane
15111510	Liquified Petroleum Gas
72154056	Tank maintenance or repair service

**3. Contractor's Duties**

**a. Product Delivery Schedule**

Product is to be delivered to the Customer within 48 hours after telephone or email notification requesting delivery of LPG is received by the Contractor, unless specified otherwise by the Customer. Notwithstanding paragraph 11 of PUR 1000, if a Customer requests same day Bobtail Delivery of the product, or orders under 50 gallons of LPG, the Customer may be subject to a delivery charge, which shall not to exceed \$35.00. Customers may have the option to select a recurring scheduled delivery service with the Contractor, and any Customer on a scheduled delivery shall not be assessed a delivery charge. The Contractor shall provide LPG and delivery in accordance with the Contract unless the Contractor is unable to fulfill a request due to a shortage of available LPG or delivery is impossible, in which case the Contractor shall notify the Customer immediately. The next lowest markup Contractor may be utilized by the Customer in the event the lowest markup Contractor provides notice of being unable to fulfill the Customer's request.

**b. Product Specifications**

All LPG sold and delivered shall be odorized in accordance with the standards set forth in the most current edition of the National Fire Protection Association (N.F.P.A.) Code NFPA No. 58 and other applicable handbooks which provides the industry benchmark for the safe storage and handling of LPG.

Contractor(s) shall meet all other applicable provisions of the aforementioned N.F.P.A. No. 58, as well as state of Florida laws, rules and regulations governing LPG including, but not limited to, Chapter 527, Florida Statutes, and Chapter 5J-20, Florida Administrative Code. The Contractor(s) shall meet or exceed any such requirements of the laws and regulations applicable to the goods and services provided.

**c. Licensure**

Contractor(s) shall comply with Sections 527.02, 527.021, and 527.03 Florida Statutes, and provide, prior to contract execution, a current and valid license(s) from the Department of Agriculture and Consumer Services to provide the goods and services set



forth herein. The Contractor(s) shall maintain the license throughout the life of the Contract.

**d. Tank Service and Maintenance**

Vendor Owned Tanks – The Contractor shall provide the Vendor Owned tank, along with any materials and maintenance required to install, replace, or maintain the upkeep on the Vendor Owned tank during the duration of the contract at no additional charge to the Customer. In the event of a leak or a service issue with the Vendor Owned tank, the Contractor will be responsible for the replacement of LPG at no additional cost to the Customer. The Contractor's Vendor Owned Tank Markup per Gallon price includes all costs associated with providing a Vendor Owned tank and the required maintenance contemplated in this Statement of Work.

Customer Owned Tanks – Material and maintenance for the installation and upkeep on Customer owned tanks are the responsibility of the Customer. Any tank maintenance or repairs required prior to the delivery of LPG must be approved by the Customer.

**e. Markup and Minimum Orders**

Except as addressed below, the Customer shall not be charged more than the Hattiesburg Average at the time of the order plus the Contractor's submitted markup per gallon.

Bobtail Delivery – Notwithstanding paragraph 11 of PUR 1000, for orders less than 50 gallons or for same day delivery services, the Bobtail Delivery charge shall not exceed \$35.00. The Bobtail Delivery charge may be added to the invoice as a separate item, in addition to the cost of the product being delivered. This delivery charge, however, shall be waived if the customer is on a scheduled delivery service.

All LPG shall meet the specifications as set forth in the latest edition of NGPA 2140.

**f. Customer's Markup Adjustment**

Markups may be adjusted no earlier than 12 months after the start date of the initial or renewal term of the contract, or no earlier than 12 months after the effective date of the previous markup adjustment, whichever is later. Markups increases must be supported by a change in the Producer Price Index (PPI) for the Series ID shown in the table below. This information is published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), and is available at <http://www.bls.gov/data/>.

Series ID	Product
484220484220601	Local hazardous materials trucking (except waste)

The change in PPI for the first markup adjustment after the start date of the initial or renewal term shall be determined using the PPI for the month in which the initial contract or renewal was executed and the latest available non-preliminary PPI at the time of the price adjustment request; a preliminary PPI is indicated on the BLS website with a "(P)" notation. The change in PPI for second and subsequent markup adjustments shall be determined using the latest PPI that was used to support the previous markup adjustment and the latest available non-preliminary PPI at the time of the request.

When requesting a markup increase, the Contractor shall submit a written justification to the Contract Manager detailing the reason(s) for the request; an increase in the PPI is not sufficient justification for a markup increase by itself. Markup increases shall not exceed the percent change in PPI or three percent, whichever is less. The percent change in PPI shall be calculated using the following formula:

$$(B - A) / A = Z$$

Where:

A = earliest PPI (PPI at time of initial contract or renewal execution or previous markup adjustment)

B = latest PPI (latest available non-preliminary PPI at time of markup adjustment request)

Z = percent change in PPI

Markup adjustments are effective only upon written approval by the Department and may not be applied retroactively. The Department reserves the right to request markup decreases at any time during the term of the contract if it is found to be in the best interest of the State. Markup decreases issued by the Contractor are permissible at any time during the initial and renewal terms.

#### **4. Customer Service and Administration**

Contractor(s) shall provide Customers all services during business days, except for holidays observed by state agencies. For further information concerning State-observed holidays, please visit:

[https://www.dms.myflorida.com/workforce\\_operations/human\\_resource\\_management/for\\_state\\_personnel\\_system\\_hr\\_practitioners/state\\_holidays](https://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_hr_practitioners/state_holidays)

If the actual holiday falls on a Saturday, the preceding Friday is observed as a holiday. When a holiday falls on Sunday, the following Monday is observed as a holiday.

Contractor(s) shall have a single point of contact to serve as Contract Manager as listed on the Vendor Information Form. The Contract Manager shall support multiple Customers and must respond to Customer calls and/or emails within one business day. The Contract Manager must be able to provide or arrange for all aspects of customer support and problem resolutions. Back-up coverage for the Contract Manager must be provided by an equally knowledgeable person.

In addition to a dedicated Contract Manager, Contractor(s) shall provide toll-free Customer service phone support from 8:00 a.m. Eastern Time to 5:00 p.m. Eastern Time, Monday through Friday, except for State-recognized holidays. TDD (Telecommunication Device for the Deaf) access must be made available during the above-named Customer service operating hours.

#### **5. Routine Communications**

All routine communications and reports related to this STC shall be sent to the Department's Contract Manager. If any information listed on the Vendor Information Form changes during the life of the Contract, then the Contractor shall update the Vendor Information Form and submit to the Department's Contract Manager. Communications relating to a specific order should be addressed to the contact person identified on the order. Communications may be by email, regular mail, or telephone except where the preferred method of communication is specified, in which case communications shall be made pursuant to the specifically listed method of communication.



## **6. Invoices**

Written or electronic invoices must clearly identify the quantity, the Contractor's name, Contract number, purchase order number, unit cost and total cost and delivery fee if applicable.

## **7. Punch-out Catalog and Electronic Invoicing**

The MFMP punch-out catalog will be optional for Contractor's to use. The punch-out catalog provides an alternative mechanism for suppliers to offer the State of Florida access to products awarded under the Contract. The punch-out catalog also allows for direct communication between the MFMP eProcurement System and a supplier's Enterprise Resource Planning (ERP) system, which can reflect real-time product inventory/availability information.

Through utilization of the punch-out catalog model, a Florida buyer will "punch out" to a supplier's website. Using the search tools on the supplier's Florida punch-out catalog site, the user selects the desired products and services. When complete, the user exits the supplier's punch-out catalog site and the shopping cart (full of products and services) is "brought back" to MFMP. No orders are sent to a supplier when the user exits the supplier's punch-out catalog site. Instead, the chosen products and services are "brought back" to MFMP as Contract line items. The user can then proceed through the normal workflow steps, which may include adding/editing the products to a requisition or a purchase order. An order is not submitted to a supplier until the buyer actually adds the line items to a requisition and the purchase order is approved and sent to the supplier.

At the State's option, the Contractor holds the option to invoice electronically pursuant to guidelines of the Department of Management Services. Electronic invoices will be submitted to the agency through the Ariba Network (AN) in one of three mechanisms as listed below. The Contractors may select the method that best meets their capabilities from the following list:

- cXML (commerce eXtensible Markup Language)
- This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the Ariba Network (AN) for catalog and non-catalog products and services. The cXML format is the Ariba preferred method for eInvoicing.
- EDI (Electronic Data Interchange)
- This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the AN, for catalog and non-catalog products and services.
- PO Flip via AN
- The online process allows suppliers to submit invoices via the AN, for catalog and non-catalog products and services. Suppliers have the ability to create an invoice directly from their Inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider of MFMP, a State Contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider the right and license to reproduce and display within the system the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the Contract.

The Contractor will work with the MFMP management team to obtain specific requirements for the punch-out catalog and electronic invoicing.

## 8. Payments

Payments shall be made in accordance with sections 215.422 and 287.0585, F.S., for State Agencies, and the Local Government Prompt Payment Act, sections 218.70-218.80 for local governments.

## 9. Purchasing Card

The State of Florida has implemented a purchasing card program, using the Visa platform. Respondents may receive payments via the State of Florida's Purchasing Card in the same manner as any other Visa purchases. Acceptance of the Purchasing Card/Visa as a method of payment to purchase the goods and services set forth herein is a mandatory requirement for this contract. The State's Purchasing Card is not the exclusive method of payment. If the state changes its Purchasing Card platform during the term of a Contract resulting from this ITB, Contractor(s) shall make any necessary changes to accommodate the State of Florida's new Purchasing Card platform within 30 days of notification of such change.

## 10. Contract Reporting

Contractor(s) shall report information on orders received from state agencies and EUs associated with this contract. Contractor(s) shall submit complete and accurate written reports in accordance with the following schedule:

Report	Period Covered	Due dates
MFMP Transaction Report (submitted through the Vendor Information Portal)	Calendar month	No later than the 15 <sup>th</sup> of each month
Contract Quarterly Sales Report (Attachment I) (submitted to the Department)	State's Fiscal Quarter	10 business days after close of the quarter
Diversity Report (submitted to the Customer)	State Fiscal Year	10 business days after close of the period upon request.
Ad Hoc Reports (submitted to the Department)	Contract Term	As requested by the Department

### 10.1 Transaction Fee Reports

Contractor(s) shall submit monthly MFMP Transaction Fee Reports in electronic format. Reports are due on the 15<sup>th</sup> of each month. For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and training presentations available online at the Transaction Fee Reporting subsections under Bidders on the MFMP website: [MFMP Transaction Fee and Reporting](#). Assistance is also available with the Transaction Fee Reporting System from the MFMP Customer Service Desk by email at [feeprocessing@myfloridamarketplace.com](mailto:feeprocessing@myfloridamarketplace.com), or telephone 866-FLA-EPRO (866-352-3776) from 8:00 a.m. to 6:00 p.m. Eastern Time.

## **10.2 Contractor Quarterly Sales Report**

Contractor(s) agrees to submit a Quarterly Sales Report (Attachment I) to the Department's Contract Manager within 10 business days after the close of each State Fiscal quarter (September 30, December 31, March 31, and June 30).

Quarterly Reporting periods should coincide with the Contract term and should begin the quarter following Contract execution. Reports must be submitted in MS Excel format. The report will include all sales (orders) from State Agencies and EUs received (associated with this Contract) during the period. Initiation and submission of the Quarterly Report is the responsibility of the Contractor without prompting or notification from the Department's Contract Manager. If no orders are received during the period, the Contractor must submit a report stating that there was no activity. If the Contractor fails to submit two consecutive quarterly sales reports, the Contractor may result in the Contractor being found in default and may cause termination of the Contract or the Department may choose to not renew the Contract.

## **10.3 Savings/Price Reductions**

Contractor(s) is required to submit a PUR 7064 Savings/Price Reductions Form (Attachment I) at the time of contract execution and on an annual basis.

## **10.4 Diversity Report**

Upon Customer request, Contractor(s) shall report to each Customer spend with certified and other minority business enterprises. These reports shall include the period covered, the name, minority code and Federal Employer Identification Number (FEIN) of each minority business utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority business on behalf of each purchasing agency ordering under the terms of this Contract.

## **10.5 Ad Hoc Reports**

Contractor(s) is required to submit ad hoc reports within the specified amount of time as agreed upon by the Department and Contractor.

## **11. Business Review Meetings**

In order to maintain the partnership between the Department and the Contractor, each quarter the Department may request a business review meeting with the Contractor. The business review meeting may include, but is not limited to, the following:

- Successful completion of deliverables
- Review of the Contractor's performance
- Review of minimum required reports
- Addressing of any elevated Customer issues
- Review of continuous improvement ideas that may help lower total costs and/or improve business efficiencies

## **12. Financial Consequences**

The following financial consequences will apply for nonperformance of the contract by a Contractor. The State reserves the right to withhold payment or implement other appropriate remedies, such as contract termination or nonrenewal, when the Contractor has failed to perform/comply with provisions of the Contract. These consequences for non-performance are not to be considered penalties.

The financial consequences will be paid via check or money order and made out to the Department of Management Services in US Dollars within 30 calendar days after the required report submission date. These consequences are individually assessed for failures over each target period beginning with the first full month or quarter of the contract performance and every quarter thereafter.

<b>Performance Metrics</b>	<b>Description</b>	<b>Frequency</b>	<b>Financial Consequences Trigger for Non-Performance Per Day Late</b>
Submission of complete and accurate Contract Quarterly Sales Report	Submit Quarterly Sales Report 10 calendar days after close of the period	Each quarter	\$250
Submission of complete and accurate Contract Monthly Transaction Fee Report	Submit Monthly Transaction Fee Report 15 calendar days after close of the period	Each month	\$100

The financial consequences will be paid via check or money order and made out to the Department of Management Services in US Dollars within 30 calendar days after the required report submission date. Financial consequences will be assessed for failures over each target period beginning with the first full month or quarter of the contract performance and every month or quarter thereafter. Customers may impose additional financial consequences associated with the delivery of services set forth herein.

### **13. Service Level Agreement (SLA) Performance**

State agencies and eligible users may add SLA requirements and additional financial consequences in their statements of work for failing to meet performance requirements within any negotiated SLA or purchase order.

## Attachment C

Liquefied Petroleum Gas  
DMS 19-15111510-P

### SPECIAL CONTRACT CONDITIONS

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**In accordance with Rule 60A-1.002(5), F.A.C., Form PUR 1000 is included herein by reference, but is superseded in its entirety by these Special Contract Conditions.**

## **Attachment C**

Liquefied Petroleum Gas  
DMS 19-15111510-P

### **SECTION 1. DEFINITION.**

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes, (F.S.) and rule Chapter 60A-1, Florida Administrative Code (F.A.C.):

#### **1.1 Customer.**

The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

### **SECTION 2. CONTRACT TERM AND TERMINATION.**

#### **2.1 Initial Term.**

The initial term will begin on the date set forth in the Contract documents or on the date the Contract is signed by all Parties, whichever is later.

#### **2.2 Renewal.**

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(13), F.S.

#### **2.3 Suspension of Work and Termination.**

##### **2.3.1 Suspension of Work.**

The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. The Customer may suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of suspension. Examples of a reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor must comply with the notice and will cease the activities associated with any active or new purchase orders. Within 90 calendar days, or any longer period agreed to by the Contractor, the Department or Customer will either (1) issue a notice authorizing resumption of work, at which time activity will resume, or (2) terminate the Contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation.

##### **2.3.2 Termination for Convenience.**

The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

##### **2.3.3 Termination for Cause.**

If the performance of the Contractor is not in compliance with the Contract requirements or the Contractor has defaulted, the Department may: (a) immediately terminate the

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Contract; (b) notify the Contractor of the noncompliance or default and require correction within a specified time, otherwise the Contract will terminate at the end of such time; or (c) take other action deemed appropriate by the Department.

### **SECTION 3. PAYMENT AND FEES.**

#### **3.1 Pricing.**

The Contractor will not exceed the pricing set forth in the Contract documents.

#### **3.2 Price Decreases.**

The following price decrease terms will apply to the Contract:

**Sales Promotions.** In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. The Contractor must submit documentation identifying the proposed (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

#### **3.3 Payment Invoicing.**

The Contractor will be paid upon submission of invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain detail sufficient for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

#### **3.4 Purchase Order.**

A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract. If applicable, the Contractor must provide commodities or contractual services pursuant to purchase orders. The purchase order period of performance survives the expiration of the Contract. The duration of purchase orders must not exceed the expiration of the Contract by more than 12 months.

#### **3.5 Travel.**

Travel expenses are not reimbursable unless specifically authorized by the Customer in writing, and may be reimbursed only in accordance with section 112.061, F.S.

#### **3.6 Annual Appropriation.**

Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

#### **3.7 Transaction Fees.**

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), F.S. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, F.A.C., or as may otherwise be established by law.



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Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees when automatic deduction becomes available.

Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

### 3.8 Taxes.

Taxes, customs, and tariffs on commodities or contractual services purchased under the Contract will not be assessed against the Customer unless authorized by Florida law.

### 3.9 Return of Funds.

Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor. The Contractor must return any overpayment within 40 calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

## SECTION 4. CONTRACT MANAGEMENT.

### 4.1 Composition and Priority.

The Contractor agrees to provide commodities or contractual services to the Customer as specified in the Contract. Additionally, the terms of the Contract supersede the terms of any and all prior agreements between the Parties.

### 4.2 Notices.

All notices required under the Contract must be delivered to the designated Contract Manager by certified mail, return receipt requested; reputable air courier service; email; personal delivery; or as otherwise identified by the Department.

### 4.3 Department's Contract Manager.

The Department's Contract Manager, who is primarily responsible for the Department's oversight of the Contract, will be provided in a separate writing to the Contractor upon Contract signing in the following format:

Frank Miller  
Division of State Purchasing  
Florida Department of Management Services  
4050 Esplanade Way, 360,  
Tallahassee, FL 32399  
850-488-8855  
[frank.miller@dms.myflorida.com](mailto:frank.miller@dms.myflorida.com)

In the event that the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

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### 4.4 Contractor's Contract Manager.

The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Contract performance, will be provided in a separate writing to the Department upon Contract signing in the following format:

Sam Hodges  
Suburban Propane, L.P.  
6991 15<sup>th</sup> St E  
Sarasota, FL 34243  
Telephone: (941) 755-3761  
Email: [shodges@suburbanpropane.com](mailto:shodges@suburbanpropane.com)

In the event that the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

### 4.5 Diversity Reporting.

The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises, and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at [osdinfo@dms.myflorida.com](mailto:osdinfo@dms.myflorida.com).

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each Department purchasing under the Contract.

### 4.6 RESPECT.

Subject to the agency determination provided for in section 413.036, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INsofar AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about RESPECT and the commodities or contractual services it offers is available at <http://www.respectofflorida.org>.



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### 4.7 PRIDE.

Subject to the agency determination provided for in sections 287.042(1) and 946.515, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INsofar AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at <http://www.pride-enterprises.org>.

## SECTION 5. COMPLIANCE WITH LAWS.

### 5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status.

Pursuant to subsection 287.058(1), F.S., the provisions of subparagraphs 287.058(1)(a)-(c), and (g), F.S., are hereby incorporated by reference, to the extent applicable.

### 5.2 Dispute Resolution, Governing Law, and Venue.

Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Contract Manager shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Contract or any other form of dispute resolution. The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, F.S., and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

### 5.3 Department of State Registration.

Consistent with Chapters 605 through 623, F.S., the Contractor and any subcontractors that assert status, other than a sole proprietor, must provide the Department with

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conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity.

### 5.4 Suspended, Convicted and Discriminatory Vendor Lists.

In accordance with sections 287.042, 287.133, and 287.134, F.S., an entity or affiliate who is on the Suspended Vendor List, Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the Suspended Vendor List, Convicted Vendor List or the Discriminatory Vendor List during the term of the Contract.

### 5.5 Scrutinized Companies—Termination by the Department.

The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

### 5.6 Cooperation with Inspector General and Records Retention.

Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website, whichever is longer. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include, but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

### 5.7 Inspection.

Section 215.422, F.S., provides that agencies have five working days, unless the contract specifies otherwise, to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Interest penalties for late payment are also limited according to section 215.422, F.S.

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### **SECTION 6. MISCELLANEOUS.**

#### **6.1 Subcontractors.**

The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all its subcontracted work. The Department supports diversity in its procurements and contracts, and requests that Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at [osdinfo@dms.myflorida.com](mailto:osdinfo@dms.myflorida.com) for information on certified small business enterprises available for subcontracting opportunities.

#### **6.2 Assignment.**

The Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of the Department. However, the Contractor may waive its right to receive payment and assign same upon notice to the Department. In the event of any assignment, the Contractor remains responsible for performance of the Contract, unless such responsibility is expressly waived by the Department. The Department may assign the Contract with prior written notice to the Contractor.

#### **6.3 Independent Contractor.**

The Contractor and its employees, agents, representatives, and subcontractors are independent contractors and not employees or agents of the Department and are not entitled to State of Florida benefits. The Department will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Contract.

#### **6.4 Risk of Loss.**

Matters of inspection and acceptance are addressed in section 215.422, F.S. Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a commodity, Contractor will remove the commodity from the premises within 10 calendar days after notification of rejection, and the risk of loss will remain with the Contractor.

Commodities not removed by the Contractor within 10 calendar days will be deemed abandoned by the Contractor and the Customer will have the right to dispose of such commodities. Contractor will reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

#### **6.5 Safety Standards.**

Performance of the Contract for all commodities or contractual services must comply with requirements of the Occupational Safety and Health Act and other applicable State of Florida and federal requirements.

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### 6.6 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

### 6.7 Time is of the Essence.

Time is of the essence regarding each and every obligation of the Contractor under the Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

### 6.8 Waiver.

The delay or failure by the Department or the Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

### 6.9 Modification and Severability.

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

### 6.10 Cooperative Purchasing.

Agencies wishing to make purchases under this Contract are required to follow the requirements of section 287.042(16) or 287.057(3) (b), F.S., and rule 60A-1.045, F.A.C. These provisions require the Department to determine that the requesting agency's use of the Contract is cost-effective and in the best interest of the State.

Pursuant to their own governing laws, and subject to the agreement of the Contractor, government entities may make purchases under the terms and conditions contained herein, if agreed to by Contractor. Non-Customer purchases are independent of the Contract between the Department and the Contractor. The Department is not a party to any transaction between the Contractor and any purchaser.

## **SECTION 7. WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE, AND INDEMNIFICATION**

### 7.1 Workers' Compensation Insurance.

To the extent required by law, the Contractor must be self-insured against, or must secure and maintain during the life of the contract, Workers' Compensation Insurance for all its employees connected with the work of this project, and in case any work is subcontracted, the Contractor must require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees engaged in work under the resulting contract are covered by the Contractor's insurance program. Self-insurance or insurance coverage must comply with the Florida Workers' Compensation law. In the event hazardous work is being performed by the Contractor under the resulting contract and any class of employees performing the hazardous work is not protected under Workers' Compensation statutes, the Contractor

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must provide, and cause each subcontractor to provide adequate insurance satisfactory to the Department for the protection of employees not otherwise protected.

### 7.2 General Liability Insurance.

The Contractor must secure and maintain Commercial General Liability Insurance, including bodily injury, property damage, products, personal and advertising injury, and completed operations. This insurance must provide coverage for all claims that may arise from the services and/or operations completed under the Contract, whether such services or operations are by the Contractor or anyone directly or indirectly employed by them. Such insurance must include the State of Florida as an additional named insured for the entire length of the resulting contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the resulting contract.

All insurance policies must be with insurers licensed or eligible to transact business in the State of Florida. The Contractor must submit via email, to the Department's contract manager, insurance certificates evidencing such insurance coverage prior to execution of a contract with the Department and provide Department notice of any cancellation or nonrenewal at least 10 calendar days prior to cancellation or nonrenewal.

### 7.3 Indemnification.

To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold the Department, the Customer, and the State of Florida, its officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the Contractor, its employees, agents, subcontractors, assignees, or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Department. The Contract does not constitute a waiver of sovereign immunity or consent by the Department or the State of Florida or its subdivisions to suit by third parties. Without limiting this indemnification, the Department or Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

## **SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT AND INTELLECTUAL PROPERTY.**

### 8.1 Public Records.

The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, Florida Statutes, made or received by the Contractor in conjunction with the Contract.



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Pursuant to section 119.0701(2) (a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the Contract if the contractor does not transfer the records to the public agency.
- (d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

### 8.2 Protection of Trade Secrets or Confidential Information.

If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 688.002 or 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as trade secret or otherwise confidential when submitted to the Department. The Contractor will be responsible for responding to and resolving all claims for access to contract-related materials it has designated trade secret or otherwise confidential.

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If the Department is served with a request for discovery of contract-related materials designated by the Contractor as trade secret or otherwise confidential, the Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated trade secret or otherwise confidential if the Contractor fails to take appropriate and timely action to protect the materials designated as trade secret or otherwise confidential.

The Contractor will protect, defend, indemnify, and hold harmless the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of contract-related materials as trade secret or otherwise confidential.

### **8.3 Document Management.**

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers and documents that were made in relation to this Contract. Contractor must retain all documents related to the Contract for five years after expiration of the Contract, or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at the Department of State's Records Management website.

### **8.4 Intellectual Property.**

Unless specifically addressed in the Contract, intellectual property rights to all property created or otherwise developed by the Contractor for the Department or the Customer will be owned by the State of Florida at the completion of the Contract.

Any inventions or discoveries developed in the course of or as a result of services performed under the Contract which are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer of any inventions or discoveries developed or made in connection with the Contract and will be referred to the Florida Department of State for a determination on whether patent protection will be sought for the invention or discovery. The State of Florida will be the sole owner of any and all patents resulting from any invention or discovery made in connection with this contract.

Contractor must notify the Department or State of Florida of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed in connection with the Contract are the sole property of the State of Florida.

## **SECTION 9. DATA SECURITY AND SERVICES.**

### **9.1 Duty to Provide Secure Data.**

The Contractor will maintain the security of State of Florida data including, but not limited to, a secure area around any displayed visible data. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

### **9.2 Warranty of Security.**

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow

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any State of Florida data to be sent by any medium, transmitted, or accessed outside of the United States.

The Contractor agrees that a violation of items listed above will result in immediate and irreparable harm to the Customer and will entitle the Customer to a credit as provided in the Contract documents. This credit is intended only to cover the Customer's internal staffing and administrative costs as well as the diminished value of services provided under the Contract and will not preclude the Customer from recovering other damages it may suffer as a result of such violation. For purposes of determining the damages due hereunder, a group of violations relating to a common set of operative facts (e.g., same location, same time period, same off-shore entity), will be treated as a single event. A violation of this provision will also entitle the Customer to recover any damages arising from a breach of this section and constitutes an event of default.

The Contractor must notify the Department and the Customer as soon as possible, in accordance with the requirements of section 501.171, F.S., if applicable, and in all events within one (1) business day in the event Contractor discovers any data is breached, any unauthorized access of data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of data occurs, or of any credible allegation or suspicion of a material violation of the above. This notification is required regardless of the number of persons or type of data affected. The notification must be clear and conspicuous and include a description of the following:

- (a) The incident in general terms.
- (b) The type of information that was subject to the unauthorized access and acquisition.
- (c) The type and number of entities who were, or potentially have been affected by the breach.
- (d) The actions taken by the Contractor to protect the data from further unauthorized access. However, the description of those actions in the written notice may be general so as not to further increase the risk or severity of the breach.

### 9.3 Remedial Measures.

Upon becoming aware of an alleged security breach, Contractor's Contract Manager must set up a conference call with the Department's and the Customer's Contract Manager. The conference call invitation must contain a brief description of the nature of the event. When possible, a 30-minute notice will be given to allow Department personnel to be available for the call. If the designated time is not practical for the Customer, an alternate time for the call will be scheduled. Contractor must share all available information on the call. The Contractor must answer all questions based on the information known at that time and answer additional questions as additional information becomes known. The Contractor must provide the Department and the Customer with final documentation of the incident including all actions that took place. If the Contractor becomes aware of a security breach or security incident outside of normal business hours, the Contractor must notify the Department's and the Customer's Contract Manager and in all events, within one business day.

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### **9.4 Indemnification (Breach of Warranty of Security).**

The Contractor agrees to defend, indemnify, and hold harmless the Department, the Customer, and the State of Florida, its officers, directors, and employees for any claims, suits, or proceedings related to a breach of the Warranty of Security. The Contractor will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this warranty for a two-year period of time following the breach.

### **9.5 Annual Certification.**

The Contractor is required to submit an annual certification demonstrating compliance with the Warranty of Security to the Department by December 31 of each Contract year.

## **SECTION 10. GRATUITIES, LOBBYING, AND COMMUNICATIONS.**

### **10.1 Gratuities.**

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

### **10.2 Lobbying.**

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to subsection 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract, after the Contract execution and during the Contract's term.

### **10.3 Communications.**

Contractor shall not, without first notifying the Department's Contract Manager and securing the Department's prior written consent, make public statements which concern the Contract or its subject matter, disclose or permit disclosure of any data or information obtained or furnished in accordance with the Contract, or use any statement attributable to the Department or its employees. Public statements include press releases, publicity releases, promotions, marketing materials, corporate communications, or other similar communications. The Department's written consent shall not be construed to supersede or waive the Contract requirements imposed on the Contractor to maintain confidential information.

## **SECTION 11. CONTRACT MONITORING.**

### **11.1 Performance Standards.**

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

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**11.2 Performance Deficiencies and Financial Consequences of Non-Performance.**  
In addition to the processes set forth in the Contract (e.g., service level agreements), if the Department determines that there is a performance deficiency that requires correction by the Contractor, then the Department will notify the Contractor. The correction must be made within a time-frame specified by the Department. The Contractor must provide the Department with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Department.

If the corrective action plan is unacceptable to the Department, or implementation of the plan fails to remedy the performance deficiencies, the Department will retain 10 percent of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Department for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited in order to compensate the Department for the performance deficiencies.

### **11.3 Liquidated Damages.**

The Contractor will promptly notify the Department or the Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or the Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or the Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

The Contractor acknowledges that untimely performance or other material noncompliance will damage the Department, but by their nature such damages are difficult to ascertain. Accordingly, the liquidated damages provisions stated in the Contract documents will apply. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

### **11.4 Force Majeure, Notice of Delay, and No Damages for Delay.**

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to fire, explosion, earthquake, windstorm, flood, radioactive or toxic chemical hazard, war, military hostilities, terrorism, civil emergency, embargo, riot, strike, violent civil unrest, or other similar cause wholly beyond the Contractor's reasonable control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. The foregoing does not excuse delay which could have been avoided if the Contractor implemented any risk mitigation required by the Contract. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department in writing of the delay or potential delay and describe the cause of the delay either (1) within 10 calendar days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five calendar days after the date the Contractor first

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had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

### SECTION 12. CONTRACT AUDITS.

#### 12.1 Performance or Compliance Audits.

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor, pertaining to this Contract, may be inspected by the Department upon 15 calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The State of Florida's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

#### 12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained in accordance with section 8.3 of these Special Contract Conditions. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, State of Florida's Chief Financial Officer or the Office of the Auditor General.



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### SECTION 13. BACKGROUND SCREENING AND SECURITY.

#### 13.1 Background Check.

The Department may require the Contractor and its employees, agents, representatives, and subcontractors to provide fingerprints and be subject to such background checks as directed by the Department. The cost of the background checks will be borne by the Contractor. The Department may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within 24 hours of all details concerning any reported arrest. The Contractor will ensure that all background screening will be refreshed upon the request of the Department for each person during the term of the Contract.

#### 13.2 E-Verify.

In accordance with Executive Order 11-116, the Contractor agrees to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five calendar days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five calendar days of notice of Contract award, and provide the Contract Manager a copy of its MOU within five calendar days of Contract execution. The link to E-Verify is <https://www.uscis.gov/e-verify>. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five calendar days to the Contract Manager identifying the new hire with its E-Verify case number.

#### 13.3 Disqualifying Offenses.

If at any time it is determined that a person has been found guilty of a misdemeanor or felony offense as a result of a trial or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, within the last six years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida data or directly performing services under the Contract. The disqualifying offenses are as follows:

- (a) Computer related crimes
- (b) Information technology crimes;
- (c) fraudulent practices;
- (d) False pretenses;
- (e) Frauds;
- (f) Credit card crimes;
- (g) Forgery;
- (h) Counterfeiting;
- (i) Violations involving checks or drafts;

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- (j) Misuse of medical or personnel records; and
- (k) Felony theft.

### 13.4 Confidentiality.

The Contractor must maintain confidentiality of all confidential data, files, and records related to the services and/or commodities provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

## SECTION 14. INFORMATION TECHNOLOGY.

The following applies to all contracts for information technology commodities and contractual services. "Information technology" is defined in section 287.012(15), F.S., to have the same meaning as provided in section 282.0041, F.S.

### 14.1 Limitation of Liability.

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$250,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contained in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to backup data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Department may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due to the Contractor under any contract with the State.

### 14.2 Information Technology Standards.

Pursuant to sections 282.0051 and 282.318, F.S., the Agency for State Technology (AST) is to establish standards for the implementation and management of information technology resources. Vendors agree to cooperate with the agency in furtherance of its efforts to comply with AST standards, established in Title 74, F.A.C., as applicable.

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	Bobtail Delivery (Group A) Markup per Gallon <sup>1</sup>				Transport Delivery (Group B) Markup per Gallon <sup>2</sup>	
	Customer Owned Tank		Vendor Owned Tank			
County	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>
Alachua	\$0.327	\$0.371	\$0.359	\$0.402	\$0.201	\$0.199
Baker	\$0.327	\$0.371	\$0.359	\$0.402	\$0.201	\$0.173
Bay	\$0.290	\$0.308	\$0.327	\$0.318	\$0.169	\$0.143
Bradford	\$0.327	\$0.371	\$0.359	\$0.402	\$0.201	\$0.183
Brevard	\$0.390		\$0.422		\$0.264	\$0.258
Broward	\$0.390		\$0.422		\$0.264	\$0.304
Calhoun	\$0.290	\$0.308	\$0.327	\$0.318	\$0.169	\$0.143
Charlotte	\$0.390		\$0.422		\$0.264	\$0.283
Citrus	\$0.390		\$0.422		\$0.264	\$0.235
Clay	\$0.327	\$0.371	\$0.359	\$0.402	\$0.201	\$0.183
Collier	\$0.390		\$0.422		\$0.264	\$0.304
Columbia	\$0.327		\$0.359		\$0.190	\$0.175
Desoto	\$0.390		\$0.422		\$0.264	\$0.283
Dixie	\$0.327		\$0.359		\$0.201	\$0.194
Duval	\$0.327		\$0.359		\$0.201	\$0.165
Escambia	\$0.290	\$0.308	\$0.327	\$0.318	\$0.179	\$0.143
Flagler	\$0.327		\$0.359		\$0.201	\$0.206
Franklin	\$0.290	\$0.308	\$0.327	\$0.318	\$0.169	\$0.143
Gadsden	\$0.290	\$0.308	\$0.327	\$0.318	\$0.158	\$0.143
Gilchrist	\$0.327		\$0.359		\$0.201	\$0.199
Glades	\$0.390		\$0.422		\$0.264	\$0.304
Gulf	\$0.290	\$0.308	\$0.327	\$0.318	\$0.169	\$0.143
Hamilton	\$0.327		\$0.359		\$0.179	\$0.165
Hardee	\$0.390	\$0.433	\$0.422	\$0.464	\$0.264	\$0.283
Hendry	\$0.390		\$0.422		\$0.264	\$0.304
Hernando	\$0.422		\$0.454		\$0.264	\$0.255
Highlands	\$0.390		\$0.422		\$0.264	\$0.283
Hillsborough	\$0.422	\$0.433	\$0.454	\$0.464	\$0.275	\$0.268
Holmes	\$0.290	\$0.308	\$0.327	\$0.318	\$0.169	\$0.143
Indian River	\$0.390		\$0.422		\$0.275	\$0.288
Jackson	\$0.290	\$0.308	\$0.327	\$0.318	\$0.158	\$0.143
Jefferson	\$0.290	\$0.308	\$0.327	\$0.318	\$0.158	\$0.143
Lafayette	\$0.327	\$0.371	\$0.359	\$0.402	\$0.190	\$0.183
Lake	\$0.422	\$0.453	\$0.454	\$0.484	\$0.264	\$0.258
Lee	\$0.390		\$0.422		\$0.264	\$0.283
Leon	\$0.290	\$0.308	\$0.327	\$0.318	\$0.158	\$0.143
Levy	\$0.327		\$0.359		\$0.201	\$0.216
Liberty	\$0.290	\$0.308	\$0.327	\$0.318	\$0.179	\$0.143

## 15111510-19-01 Liquified Petroleum (LP) Gas

	Bobtail Delivery (Group A) Markup per Gallon <sup>1</sup>				Transport Delivery (Group B) Markup per Gallon <sup>2</sup>	
	Customer Owned Tank		Vendor Owned Tank			
County	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>
Madison	\$0.290		\$0.327		\$0.169	\$0.160
Manatee	\$0.390		\$0.422		\$0.264	\$0.288
Marion	\$0.390		\$0.422		\$0.222	\$0.216
Martin	\$0.390		\$0.422		\$0.264	\$0.288
Miami-Dade	\$0.390		\$0.422		\$0.264	\$0.304
Monroe	\$0.550	\$0.515	\$0.581	\$0.536	\$0.402	\$0.361
Nassau	\$0.327		\$0.359		\$0.201	\$0.160
Okaloosa	\$0.290	\$0.308	\$0.327	\$0.318	\$0.179	\$0.143
Okeechobee	\$0.390	\$0.453	\$0.422	\$0.484	\$0.264	\$0.283
Orange	\$0.390	\$0.433	\$0.422	\$0.466	\$0.254	\$0.247
Osceola	\$0.390	\$0.433	\$0.422	\$0.466	\$0.264	\$0.278
Palm Beach	\$0.390		\$0.422		\$0.264	\$0.304
Pasco	\$0.422	\$0.433	\$0.454	\$0.464	\$0.275	\$0.266
Pinellas	\$0.422	\$0.433	\$0.454	\$0.464	\$0.285	\$0.278
Polk	\$0.422	\$0.433	\$0.454	\$0.466	\$0.285	\$0.278
Putnam	\$0.327		\$0.359		\$0.201	\$0.196
Santa Rosa	\$0.290	\$0.308	\$0.327	\$0.318	\$0.179	\$0.143
Sarasota	\$0.390		\$0.422		\$0.264	\$0.288
Seminole	\$0.390		\$0.422		\$0.254	\$0.247
St. Johns	\$0.327		\$0.359		\$0.201	\$0.185
St. Lucie	\$0.390	\$0.443	\$0.422	\$0.474	\$0.264	\$0.283
Sumter	\$0.390		\$0.422		\$0.254	\$0.237
Suwannee	\$0.327		\$0.359		\$0.179	\$0.175
Taylor	\$0.290		\$0.327		\$0.169	\$0.180
Union	\$0.327		\$0.359		\$0.190	\$0.185
Volusia	\$0.390	\$0.443	\$0.422	\$0.474	\$0.222	\$0.216
Wakulla	\$0.290	\$0.308	\$0.327	\$0.318	\$0.169	\$0.143
Walton	\$0.290	\$0.308	\$0.327	\$0.318	\$0.179	\$0.143
Washington	\$0.290	\$0.308	\$0.327	\$0.318	\$0.179	\$0.143

<sup>1</sup> Bobtail Delivery (4,500 gallons or less) – Please note that, for orders less than 50 gallons or for same-day delivery services, a bobtail delivery charge (not to exceed \$35) may be added to the invoice as a separate item, in addition to the cost of the product being delivered; however, this delivery charge shall be waived if the customer is on a scheduled delivery service.

<sup>2</sup> Transport Delivery (more than 4,500 gallons)

<sup>3</sup> Effective 10/13/2021

<sup>4</sup> Effective 12/3/2021

15111510-19-01 Liquified Petroleum (LP) Gas

	Bobtail Delivery (Group A) Markup per Gallon <sup>1</sup>				Transport Delivery (Group B) Markup per Gallon <sup>2</sup>	
	Customer Owned Tank		Vendor Owned Tank			
County	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>	Suburban <sup>5</sup>	Ferrellgas <sup>4</sup>

<sup>5</sup> Effective 10/14/2022

A. CONTRACTOR will purchase and maintain at all times during the term of this Contract, without cost or expense to the COUNTY, policies of insurance as indicated below, with a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring the CONTRACTOR against any and all claims, demands, or causes of action, for injuries received or damage to property relating to the performance of duties, services, or obligations of the CONTRACTOR under the terms and provisions of the Contract. An original certificate of insurance, indicating that CONTRACTOR has coverage in accordance with the requirements of this section must be received and accepted by the COUNTY prior to contract execution or before any work begins. It will be furnished by CONTRACTOR to the COUNTY'S Project Manager and Procurement Services Director within five working days of such request. The parties agree that the policies of insurance and confirming certificates of insurance will insure the CONTRACTOR in accordance with the following minimum limits:

i. General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$500,000
Products-Completed Operations	\$500,000
Personal & Adv. Injury	\$500,000
Fire Damage	\$50,000
Medical Expense	\$5,000
Contractual Liability	Included

ii. Automobile liability insurance, including owned, non-owned, and hired autos with the minimum Combined Single Limit of \$300,000

iii. Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and any other applicable law requiring workers' compensation (Federal, maritime, etc.). If not required by law to maintain workers compensation insurance, the CONTRACTOR must provide a notarized statement that if he or she is injured, he or she will not hold the COUNTY responsible for any payment or compensation.

iv. Employers Liability with the following minimum limits and coverage:

Each Accident	\$100,000
Disease-Each Employer	\$100,000
Disease-Policy Limit	\$100,000

v. The following additional coverage must be provided:

Pollution Liability	\$1,000,000
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B. Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, will be named as additional insured as their interest may appear all applicable policies. Certificates of insurance must identify the Solicitation/Contract number in the Description of Operations section on the Certificate.



C. CONTRACTOR must provide a minimum of 30 days prior written notice to the County of any change, cancellation, or nonrenewal of the required insurance.

D. Certificates of insurance must evidence a waiver of subrogation in favor of the COUNTY, that coverage must be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium by the COUNTY.

E. CONTRACTOR must provide a copy of all policy endorsements, reflecting the required coverage, with Lake County listed as an additional insured along with all required provisions to include waiver of subrogation. Contracts cannot be completed without this required insurance documentation. A certificate of insurance (COI) will not be accepted in lieu of the policy endorsements.

F. Certificate holder must be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA,  
AND THE BOARD OF COUNTY COMMISSIONERS.  
P.O. BOX 7800  
TAVARES, FL 32778-7800

G. All self-insured retentions will appear on the certificates and will be subject to approval by the COUNTY. At the option of the COUNTY, the insurer will reduce or eliminate such self-insured retentions; or CONTRACTOR will be required to procure a bond guaranteeing payment of losses and related claims expenses.

H. The COUNTY will be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention will be the sole responsibility of the CONTRACTOR or subcontractor providing such insurance.

I. CONTRACTOR will be responsible for subcontractors and their insurance. Subcontractors are to provide Certificates of Insurance to the COUNTY evidencing coverage and terms in accordance with the CONTRACTOR'S requirements.

J. Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

K. Neither approval by the COUNTY of any insurance supplied by CONTRACTOR, nor a failure to disapprove that insurance, will relieve CONTRACTOR of full responsibility of liability, damages, and accidents as set forth herein.

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