



GENERAL TERMS AND CONDITIONS FOR ALL ISSUED PURCHASE ORDERS

Unless there is a fully signed, written agreement between you or your organization (VENDOR) and the Brevard Sheriff's Office ("BCSO" or "SHERIFF") or a Purchase Order is a result of a Bid which contained terms and conditions, the following contractual terms and conditions apply to your services and/or goods delivered to BCSO and your performance rendered to BCSO relative to your issued Purchase Order ("PO"). The VENDOR's acceptance of the issued BCSO PO shall constitute acceptance of the below terms and conditions. These General Terms and Conditions for All Issued Purchase Orders including the related Purchase Order and attachments are hereby referred to as "Contract" or "Agreement".

- 1. Public Record:** BCSO is subject to Chapter 119, Florida Statutes, the "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of the PO will be honored unless a specific exemption from the Public Records Law exists and it is cited in the PO. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed.

Pursuant to Florida law (including specifically but not limited to Section 119.0701, Florida Statutes), the VENDOR must comply with all applicable public records law. Specifically, the VENDOR shall:

- 1.1** Keep and maintain public records required by SHERIFF to perform the services contracted for in this Agreement.
- 1.2** Upon request from SHERIFF, SHERIFF's designee or SHERIFF'S custodian of public records, provide SHERIFF or designee with a copy of the requested records or allow the records to be inspected or copied, at SHERIFF or designee's sole option, within a reasonable time at no cost to SHERIFF.
- 1.3** 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 VENDOR does not transfer the records to SHERIFF.
- 1.4** Upon completion of the contract, transfer, at no cost, to SHERIFF all public records in possession of VENDOR or keep and maintain public records required by SHERIFF to perform the services contracted for in this Agreement, at SHERIFF's sole option. If the VENDOR transfers all public records to SHERIFF upon completion of the contract, the VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the VENDOR keeps and maintains public records upon completion of the contract, the VENDOR shall meet all applicable requirements for retaining public records.
- 1.5** All public records stored electronically by the VENDOR pertaining to the services contracted for in this Agreement must be provided to SHERIFF, upon request from the SHERIFF, or SHERIFF's designee or SHERIFF'S custodian of records, in a format that is compatible with the information technology systems of SHERIFF.

In the event VENDOR receives a public records request related to this agreement and the services provided hereunder, VENDOR shall promptly forward the same to SHERIFF for SHERIFF'S records.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: RECORDS UNIT SUPERVISOR, BREVARD SHERIFF'S OFFICE, 700 S PARK AVENUE, TITUSVILLE, FLORIDA 32780 (321)264-5214 OR RECORDS@BCSO.US.

- 2 **Choice of Law & Forum**: VENDOR agrees that any and all agreements and transactions and performances resulting from this PO will be governed by the laws of the State of Florida, and the venue for any legal action will be Brevard County, Florida. VENDOR shall meet all State and Federal certification requirements, and any other applicable laws, codes, rules, regulations and standards throughout the performance term relative to the PO.
- 3 **Assignment**: VENDOR may not assign its rights and/or obligations without the prior written approval of BCSO which may not be unreasonably withheld.
- 4 **Non-Discrimination**: VENDOR shall not discriminate against any client, employee or applicant for employment because of race, age, color, religion, sex, sexual orientation, sexual preference, national origin, physical or mental disability, marital status or medical status. VENDOR shall comply with all applicable sections of the Americans with Disabilities Act. The VENDOR agrees that compliance with this provision constitutes a material condition to this PO, and that it is binding upon the VENDOR, its successors, transferees, and assignees for the period during which services are provided. The VENDOR further agrees to ensure that its independent contractors/subcontractors are not in violation of the terms of this provision.
5. **Open-End Contract**:
 - 5.1 No guarantee is express or implied as to the total quantity of units to be purchased under any open-end PO. Estimated quantities will be used for issuance of the PO.
 - 5.2 **Ordering**: BCSO reserves the right to purchase units specified herein through contracts established by other governmental agencies or through separate procurement actions due to unique or special needs. If an urgent delivery is required, within a shorter period than the delivery time specified in the contract and if the VENDOR is unable to comply therewith, BCSO reserves the right to claim such delivery from others without penalty or prejudice to BCSO.
 - 5.3 BCSO reserves the right to extend the same or similar services/products offered by VENDOR to other BCSO departments, at the discretion of BCSO.
 - 5.4 BCSO reserves the right to seek the same or similar goods and services from other third-party vendors and the issuance of the PO to VENDOR shall not be interpreted to mean or suggest any exclusivity award to the VENDOR for delivery of goods or services to BCSO.

6. Intellectual Property Rights and Warranties:

6.1 Intellectual Property Rights: VENDOR warrants that there has been no violation of intellectual property rights in manufacturing, producing, and/or selling the item(s) ordered or shipped to BCSO or the services being delivered to BCSO. VENDOR agrees to indemnify and hold harmless BCSO, the Sheriff, its employees, agents, or servants, Brevard County, Brevard County Board of Commissioners, its employees, agents, or servants against any and all liability, loss, or expense resulting from any such violation.

6.2 Warranty Regarding Viruses & Non-infringement (Applicable to Technology and Systems Used by VENDOR): Prior to VENDOR performing any services, deliverables, software, formulas, calculations, work-flows, codes, scripts and data and processes, VENDOR shall use commercially available industry acceptable anti-virus software to detect viruses in said deliverables/items or upon any media on which such deliverables/items is provided to BCSO or to the general public end users of the VENDOR'S services. VENDOR also represents and warrants that, at the time VENDOR'S software, codes, scripts, formulas, calculations, work-flows, data and processes are delivered to VENDOR, no portion of such or the media upon which it is stored has any type of undocumented software routines or other elements which is intentionally designed by VENDOR to permit, allow or cause any of the following:

- 1) Unauthorized access to or intrusion upon;
- 2) Disabling of; Erasure of; or
- 3) Interference with

any hardware, software, data or peripheral equipment whether directly or by transference. In the event of a breach of this representation and warranty, VENDOR shall pay for, and/or remedy or correct any damages, harm or malfunctions caused by a breach of the above at no cost to BCSO.

6.3 Warranty of Non-infringement: Notwithstanding anything to the contrary within this Contract, VENDOR represents and warrants that, at the time of entering into this Contract and to VENDOR'S knowledge, no claims have been asserted or action or proceeding brought against VENDOR which alleges that all or any part of the services, deliverables, system, software, scripts, codes, processes, calculations, formulas, work-flows, data and alike provided under this Contract (including any customization or interface) or use thereof by VENDOR, infringes or misappropriates any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party, nor is VENDOR aware of any such potential claim. Notwithstanding anything to the contrary within this Contract, VENDOR warrants title and non-infringement of any other intellectual property rights held by others.

7. Insurance: VENDOR shall maintain in full force and effect the insurance coverage set forth in this section throughout the term of this PO and for all applicable statutes of limitation periods

7.1 This section shall not apply if:

7.1.1 The PO is \$5,000 or less and BCSO has not otherwise stated in writing that VENDOR must maintain such insurance; or

7.1.2 BCSO waives or alters the insurance requirements in writing.

- 7.2 All Insurance Policies shall be issued by companies that (A) are authorized to transact business in the State of Florida, (B) have agents upon whom service of process may be made in Brevard County, Florida, and (C) have an A.M. Best rating of A-VI or better.
- 7.3 All Insurance Policies shall name and endorse the following as additional insureds: The Brevard County Sheriff's Office, BCSO, the Sheriff, Brevard County, the Board of Commissioners of Brevard County, and their officers, agents, employees and commission members with a CG026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement to the liability policies. Additional insured is defended and indemnified for claims to the extent caused by the acts, actions, omissions or negligence of VENDOR, its employees, agents, subcontractors, and representatives; but is not defended or indemnified for the additional insured's own acts, actions, omissions, negligence.
- 7.4 All Insurance Policies shall be endorsed to provide that: (a) VENDOR's insurance is primary to any other insurance available to the additional insureds with respect to claims covered under the policy and (b) VENDOR's insurance applies separately to each insured against who claims are made or suit is brought and that the inclusion of more than one insured shall not operate to increase the insurer's limit of liability. Self- insurance shall not be acceptable.
- 7.5 If the VENDOR fails to submit the required insurance certificate in the manner prescribed in Sections 7.7 or 7.13, or after being requested to do so by BCSO, BCSO shall have the right to either rescind the PO or suspend the PO until such time as the new or renewed certificate/endorsements are received by BCSO.
- 7.6 VENDOR shall carry the following minimum types of Insurance when services, installation/labor and any instance where your firm will be on BCSO premises (Commercial General Liability is to be carried by all Contractors):
- 7.6.1 Worker's Compensation:**
- 7.6.1.1 Worker's Compensation Insurance is to apply to all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws.
- 7.6.1.2 VENDOR shall carry Worker's Compensation Insurance which shall include employers' liability insurance with limits of not less than:
- 7.6.1.2.1 the greater of the Florida statutory minimum or Five Hundred Thousand (\$500,000) dollars for each accident,
- 7.6.1.2.2 the greater of the Florida statutory minimum or Five Hundred Thousand (\$500,000) dollars for each disease and,
- 7.6.1.2.3 the greater of the Florida statutory minimum or Five Hundred Thousand (\$500,000) dollars for aggregate disease.
- 7.6.1.3 Policy(ies) must be endorsed with waiver of subrogation against BCSO and Brevard County and is limited to the extent any claim is caused by VENDOR.
- 7.6.2 Business Automobile Liability Insurance:** VENDOR shall carry business automobile liability insurance with minimum limits of One Million (\$1,000,000) dollars per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business automobile liability policy without restrictive endorsements, as filed by the Insurance Services office, and must include owned vehicles and hired and non-owned vehicles.

7.6.3. Commercial General Liability: VENDOR shall carry Commercial General Liability Insurance for all operations including but not limited to Contractual, Products and Completed Operations, Professional Liability and Personal Injury with limits of not less than two million (\$2,000,000) dollars (aggregate) and one million (\$1,000,000) per occurrence combined single limit for bodily injury and property damage. The insurance policy must include coverage that is no more restrictive than the latest edition of the commercial general liability policy, without restrictive endorsements as filed by the Insurance Service Office, and the policy must include coverage for premises and/or operations, independent contractors, products and/or completed operations for contracts, contractual liability, broad form contractual coverage, broad form property damage, products, completed operations, and personal injury. Personal injury coverage shall include coverage that has the employee and contractual exclusions removed.

7.6.4. Umbrella or Excess Liability Insurance: VENDOR may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for any of the policies noted above. VENDOR agrees to name and endorse the Brevard County Sheriff's Office, BCSO, the Sheriff, Brevard County, the Board of Commissioners of Brevard County and their officers, agents, employees and commission members as additional insureds. Additional insured is defended and indemnified for claims to the extent caused by the acts, actions, omissions or negligence of VENDOR, its employees, agents, subcontractors, and representatives; but is not defended or indemnified for the additional insured's own acts, actions, omissions, negligence.

7.7 VENDOR shall provide BCSO's Contract Manager with a copy of the Certificate of Insurance and endorsements evidencing the types of Insurance and coverage required by this section within three (3) calendar days of VENDOR's receipt of Notice of Intent to Award the contract or PO issuance, and at any time thereafter, upon request by the BCSO. It is the VENDOR's responsibility to ensure that the Director of Risk Management and the Contract Manager both have a current Insurance Certificate and endorsements at all times.

7.8 VENDOR's Insurance Policies shall be endorsed to provide BCSO with at least sixty (60) calendar days prior written notice of cancellation, non-renewal, restrictions, or reduction in coverage or limits. Notice shall be sent to:

Brevard County Sheriff's Office
Attn: Contract Manager, Finance
700 S. Park Avenue
Titusville, FL 32780

7.9 If VENDOR's Insurance policy is a claims-made policy, then VENDOR shall maintain such Insurance Coverage for a period of five (5) years after the expiration or termination of this Contract. Applicable coverage may be met by keeping the policies in force, or by obtaining an extension of coverage commonly known as a reporting endorsement of tail coverage.

7.10 If any of VENDOR's Insurance policies includes a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be no more than five (5) times the occurrence

limits specified above in this article.

7.11 The provisions of this article shall survive the expiration or termination of this Contract.

7.12 Payment: If any of the insurance policies required under this section above lapse during the term of this Contract or any extension or renewal of the same, VENDOR shall not receive payment from the BCSO until such time that BCSO has received satisfactory evidence of reinstated coverage of the types and coverage specified in this section that is effective as of the lapse date. BCSO, at its sole discretion, may terminate the Contract immediately and no further payments shall be due to VENDOR.

7.13 Renewal of Insurance: VENDOR shall be responsible for assuring that the insurance certificate/ endorsements required in conjunction with this section remains in force for the duration of the contractual performance period. If the insurance certificate/endorsements are scheduled to expire during this period, VENDOR shall be responsible for submitting a new or renewed insurance certificate/ endorsements to BCSO at a minimum of sixty (60) calendar days in advance of such expiration. In the event that expired certificate/endorsements are not replaced with a new or renewed certificate which covers the contractual performance period, BCSO shall have the right to either rescind the Contract/Purchase Order or suspend the Contract/Purchase Order until such time as the new or renewed certificate/endorsements are received by BCSO.

7.14 Minimum Coverage: Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve VENDOR of liability in excess of such coverage, nor shall it preclude BCSO from taking such other actions as is available to it under any other of these terms and conditions or otherwise in law or equity.

8 Laws and Regulations: VENDOR agrees to abide by all applicable Federal, State, County, and local rules, regulations, ordinances and codes relative to its performance tendered to BCSO and/or the goods or services it provides to BCSO relative to this Contract.

9 Taxes: All taxes - federal, state and local, relating to the VENDOR's work under its Contract with BCSO and, similarly, all costs for licenses, permits, or certifications shall be paid by BCSO. VENDOR certifies that all state and federal tax exemptions applicable to BCSO will be applied.

10. Indemnification: VENDOR shall, at all times hereafter, indemnify, hold harmless and, at the option of BCSO counsel, defend or pay for an attorney selected by BCSO counsel to defend BCSO, the Sheriff, Brevard County, the Board of Commissioners of Brevard County, and their officers, agents and employees of BCSO and Brevard County and Brevard County Commission members from and against any and all claims, suits, actions, demands, causes of actions of any kind or nature, including all costs, expenses and attorney's fees, arising out of the negligent or wrongful act or omission of VENDOR, its officers, agents, employees, servants, independent contractors or subcontractors.

VENDOR shall inform BCSO in advance of planned actions and/or conduct related to VENDOR's handling of any such action or claim. BCSO shall inform VENDOR of any known restrictions, defenses or limitations that may arise or exist by reason of BCSO being a governmental entity.

BCSO shall not be liable for and VENDOR agrees to indemnify BCSO against any liability resulting from injury or illness, of any kind whatsoever, to VENDOR's employees, agents, representatives, designees, or servants during the performance of the services, duties, and responsibilities

contemplated herein.

The above indemnification provisions shall survive the expiration or termination of this Contract.

11. **Sovereign Immunity**: Nothing in these terms or conditions or the Purchase Order is intended nor shall it be construed or interpreted to waive or modify BCSO's immunities and limitations on liability provided for in Florida Statutes section 768.28 as now worded or as may hereafter be amended.
12. **Confidentiality of BCSO Operations and No Right of Publicity**:
 - 12.1 Confidentiality of BCSO Operations: To the extent permitted by law, VENDOR shall not at any time, in any manner, either directly or indirectly, communicate to any person, firm, corporation or other entity any information of any kind concerning any matter affecting or relating to the business of BCSO, including, but not limited to, its manner of operation, its plans, computer systems, processes or other data of any kind, nature or description. The parties stipulating that as between them, the aforementioned matters are important, material and confidential and gravely affect the effective and successful conduct of the business of BCSO, and its goodwill, and that any breach of the terms of this paragraph is a material breach of this Contract. VENDOR acknowledges that a breach of this confidentiality will cause irreparable injury to BCSO that the remedy at law for any such violation or threatened violation will not be adequate and BCSO shall be entitled to temporary and permanent injunctive relief. The provisions of this clause shall remain in full force and effect and enforceable even after the expiration of the contract. At the option of BCSO, employees and/or subcontractors of VENDOR that will be working on this contract will be required to electronically sign a confidentiality agreement.
 - 12.2 No Right of Publicity: No VENDOR shall advertise that BCSO is one of VENDOR'S Customers or use VENDOR CUSTOMER'S name and logo, in any type of marketing or advertisement materials.
13. **Severability**: In the event any provisions of these terms and conditions are held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the terms and conditions which shall remain in full force and effect and enforceable in accordance with these terms and conditions.
14. **Enforcement**: In the event either party incurs legal expenses or costs to enforce these terms and conditions, the prevailing party shall be entitled to recover the costs of such action so incurred, including, without limiting, reasonable attorney's fees and costs.
15. **No Third Party Beneficiaries**: This Contract is for the benefit of the parties hereto, and is not entered into for the benefit of any other person or entity. Nothing in these terms and conditions or Purchase Order shall be deemed or construed to create or confer any benefit, right or cause of action for any third party or entity.
16. **Funding**: The obligation of BCSO for payment to the VENDOR is limited to the availability of funds appropriated in a current fiscal period, and continuation of any contractual relationship into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
17. **Manner of Performance**: VENDOR agrees to perform its duties and obligations in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, regulations and codes. VENDOR agrees that the services provided shall be provided by

employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. VENDOR agrees to furnish to BCSO any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. VENDOR further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this contract. Failure of VENDOR to comply with this paragraph shall constitute a material breach of these terms and conditions and Purchase Order.

18. VENDOR's Travel Expenses: Unless expressly agreed to in writing by BCSO, VENDOR shall pay its agents', employees', contractors', and representatives' travel costs associated with its performance of this agreement. Should BCSO agree to pay a portion of VENDOR's travel expenses, such payment shall be conditioned upon: (1) Prior written approval by BCSO for the travel expenses before VENDOR commences travel; and (2) VENDOR agrees to adhere to Florida Statute 112.061 as it pertains to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous costs and fees.

19. CALEA Standards & Criminal Justice Information Services Standards

19.1 If the VENDOR is providing computer or telecommunication services that stores, transmits or copies (or facilitates any of the forgoing) data originating from BCSO and/or VENDOR is providing services offered by the VENDOR interfaces with, or VENDOR needs access to, any of the BCSO'S Criminal Justice Information Systems ("CJIS") which contain Criminal Justice Information ("CJI") (as defined by the Federal Bureau of Investigations ("FBI") and the Florida Department of Law Enforcement ("FDLE") and includes but not limited to any notations or other written or electronic evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person that includes identifying information regarding the individual as well as the disposition of any charges) then the following provisions apply to this Agreement:

19.2 Ownership of all data originating from BCSO and sent to, or hosted by, the VENDOR remains the BCSO'S exclusive property. To the extent that the VENDOR needs access to such data to deliver the services contemplated within the parties' Agreement, the VENDOR is allowed such limited access and limited use. Upon expiration of this Agreement for any reason, said limited access to the data shall expire and VENDOR shall provide BCSO copies of all data hosted and/or stored by VENDOR under this Agreement in a commercially accepted downloadable format (for example, XLM format and WORD format) or allow BCSO access to such data for downloading up to ninety (90) days after the termination of this Agreement without any additional cost or expense.

19.3 The storage (cloud storage or otherwise) of the data considered to be CJI shall only occur by VENDOR in servers and/or data centers and/or computer systems physically located in the United States or its territories and Indian Tribes and/or Canada and subject to the respective governmental jurisdictions (U.S. federal government, individual U.S. State governments, U.S. Indian Tribes or the Royal Canadian Mounted Police).

19.4 The software and/or hosting services being provided by the VENDOR to BCSO shall use the latest security and privacy tools including SSL 128-bit encryption, server certificates with Global ID provided by the premier national provider, the highest level of encryption dictated by Federal guidelines – the AES algorithm and SSAE No. 16 SOC 1 f/k/a SAS 70 Type II certification. BCSO'S data will be stored in mirrored, redundant, secured facilities and shall be routinely backed up on an independent server separate and apart from the server providing day-to-day services to BCSO. VENDOR agrees to institute commercially reasonable restrictive security measures to prevent and detect unauthorized physical and/or remote access to the systems and data services being provided to BCSO under this

Agreement. VENDOR shall provide layers of security at its physical hosting site, that consist of a number of measures such as biometric access, closed circuit TV, security system monitoring, multiple check-points, restricted building access, photo badges, proximity access cards, controlled visitor access and alike. VENDOR shall institute routine system security audits such as SAS-79, SysTrust, Webtrust, ISO 27001/2, virus and malware scans and other industry standard system audit procedures. VENDOR shall immediately notify BCSO in writing of any breaches of security and/or unauthorized access to BCSO'S systems and/or services being provided by VENDOR.

- 19.5 VENDOR shall have in place a disaster recovery plan that includes the recovery of critical systems (i.e., systems that provide software services to customers) in event of VENDOR'S full or partial data center outage. The plan must include at a minimum, the ability to recover critical systems in a working state within a short period of time with critical functions online and processing customer requests. The plan must also include a suitable back up power supply independent of commercial electrical services offered to the general public (i.e. suitable generator). The VENDOR must be able to execute the disaster recovery plan within moments of a disaster declaration. VENDOR must test its disaster recovery plan annually.
- 19.6 VENDOR agrees to comply with all security protocols, handling, storing, hosting, transmitting and copying of CJI data on CJIS in accordance with the latest version of the Criminal Justice Information Services Security Policy (CSP) published and updated periodically by the FBI and can be found here: <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center> and the most current CJIS Security Addendum approved by the Director of the FBI, acting for the U.S. Attorney General, as referenced in Title 28 CFR 20.33 (a)(7) both of which are incorporated herein by reference into the parties' Agreement.
- 19.7 VENDOR shall comply with the FBI CJIS Security policy screening requirements for all staff, employees, subcontractors, agents and/or vendors that will have unescorted physical or logical access to criminal justice information and/or access to any Brevard Sheriff's Office facility that is deemed a physically secure location. The screening consists of a state/national fingerprint-based background check and online Security Awareness training that is renewed every two years. VENDOR may not fingerprint its own employees, subcontractors or agents and fingerprinting must be taken/rolled/printed by a recognized law enforcement agency or an FDLE-approved third-party vendor.
- 19.8 All of VENDOR'S staff, employees, subcontractors, agents and/or vendors who access or handle in any way, BCSO'S CJIS or CJI the appropriate security awareness training via the CJIS online application and update and maintain the same throughout the duration of this Agreement. VENDOR shall maintain the Security Addendum Certification form mandated by CSP and provided by BCSO'S CJIS Compliance unit to VENDOR for each of VENDOR'S staff, employees, subcontractors, agents and/or vendors with access to BCSO'S CJI or CJIS.
- 19.9 VENDOR and any staff, employee, subcontractors, agents and/or vendors shall follow all requirements pertaining to their operations when accessing, storing, transmitting or handling CJI found in Florida Statute 501.171 and the FBI SJIS Security Policy.
- 19.10 If the services rendered by VENDOR under this Agreement is in noncompliance with any FBI or FDLE regulations pertaining to the accessing, storing, transmitting or handling CJI, as updated and modified from time to time by FBI and/or FDLE, then VENDOR shall take all necessary action to bring its services into compliance as soon as possible. BCSO reserves the right to deny physical and/or logical access to a contractor that is deemed to be in noncompliance with these provisions. This is a material term of the Agreement and if such noncompliance is not timely remedied by VENDOR, BCSO may terminate the Agreement and VENDOR shall allow BCSO the ability to recapture BCSO'S data as more fully described herein and VENDOR shall facilitate BCSO'S efforts in recovering said data from VENDOR'S systems.

- 20. Waiver or Breach:** It is agreed that no waiver or modification of the terms hereof or of any covenant, condition, or limitation contained in said terms shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting the terms hereof, or the right or obligations of any party, unless such waiver or modification is in writing, and duly executed. The waiver by either party of a breach or violation of any provision of these terms and conditions shall be construed as a modification of these terms and conditions and shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision of these terms and conditions.
- 21. Termination:** The Contract and the parties' performance may be terminated upon the following events:
- 21.1 Termination by Mutual Agreement.** In the event the parties mutually agree in writing, the Contract may be terminated on the terms and dates stipulated therein.
- 21.2 Termination Without Cause.** BCSO shall have the right to terminate the PO without cause by providing the VENDOR with thirty (30) calendar days written notice.
- 21.3 Termination for Cause.** In the event of a material breach of these terms and conditions, either party may provide the other party with written notice of the material breach. The other party shall have thirty (30) days from the date of its receipt of such notification to cure such material breach. If the material breach is not cured within that time period, the non-breaching party may terminate their performance and the parties' relationship immediately. Material breaches shall include but are not limited to, violations of Governing Standards, state or federal laws, BCSO's policies and procedures, or these terms and conditions.
- 21.4 Termination for Lack of Funds.** In the event the funds to finance this Contract become unavailable or are not allocated by Brevard County (or if this Contract is funded by way of a grant source, then in the event the funds to finance this Contract become unavailable or are not allocated by that grant source), BCSO may provide VENDOR with thirty (30) days written notice of termination.
- 21.5 Immediate Termination by BCSO.** BCSO, in its sole discretion, may terminate the Contract immediately upon the occurrence of any of the following events:
- 21.5.1** VENDOR's violation of the Public Records Act;
 - 21.5.2** The insolvency, bankruptcy or receivership of VENDOR;
 - 21.5.3** VENDOR's violation or non-compliance with NONDISCRIMINATION Section of these terms and conditions; or
 - 21.5.4** VENDOR fails to maintain insurance in accordance with the INSURANCE Section of these terms and conditions.
 - 21.5.5** VENDOR submits a false certification as provided in Section 26 below.
 - 21.5.6** VENDOR is found to have 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.

21.5.7 VENDOR is found to have been placed on the on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

21.5.8 Neither the expected termination nor the expiration of the Contract shall relieve VENDOR, its employees and independent contractors from their contractual duty and ethical obligation to provide or arrange for services until the date of termination.

Notwithstanding any other provisions of these terms and conditions, the VENDOR'S duty to indemnify and defend BCSO as set forth in these terms and conditions shall survive the termination or expiration of the PO.

22. Key Personnel: To the extent that this Agreement or related statement of work for services to be performed by VENDOR'S key personnel, those services must be performed by the personnel identified in the VENDOR's proposal to perform them unless substitutes have been approved in writing by BCSO. Use of junior personnel, even under key personnel supervision (for example, associates or student workers), is not authorized unless they are identified in the VENDOR's proposal by name or position, with a description of their duties. The Contract may be terminated if the key personnel named in the VENDOR's proposal become unavailable for any reason. If the unavailability of key personnel is not the fault of the VENDOR, BCSO may terminate by giving notice of termination. The VENDOR will be paid for service performed up to the date of termination. If BCSO finds that the VENDOR is at fault for the unavailability of key personnel, the Contract may be terminated for default.

23. Public Entity Crimes: In accordance with the Public Entity Crimes Act (Section 287.133, Florida Statutes) a person or affiliate who has been placed on the convicted vendor list maintained by the State of Florida Department of General Services following a conviction for a public entity crime may not submit a Bid on a contract to provide any goods or services to a public entity, may not submit a Bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit Bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

24. Most Favored Customer Pricing: Acceptance of this Purchase Order by the VENDOR shall act as a representation and warranty that the wage rates and/or costs and/or materials used to determine the compensation provided for, are accurate, complete and current as of the date of the Purchase Order. During the term of the Contract, prices for the goods and services required under the Purchase Order and offered to BCSO must be the equal to or lower than those offered the most favorable customer of VENDOR for similar quantities under comparable terms and conditions. When requested by the BCSO's contracting officer or representative, the VENDOR must show that the prices offered to BCSO match or are less than those offered the VENDOR'S most favored customers for those quantities under those terms and conditions, and such pricing data must be available for review by BCSO throughout the term of the Contract. Any price reductions offered to other VENDOR's customers must be offered to the BCSO if similar item quantities are involved.

25. Cost/Price Reduction: During the term of the Contract, BCSO reserves the right to negotiate price reductions for any good or service being purchased. During the term of the Contract, BCSO expects the VENDOR to continually seek to improve production and performance processes and method,

and to report on these efforts to BCSO. Additionally, price reductions may be sought by the BCSO as a result of changes in market conditions, industry trends and indexes, or in cost/price indexes, and their impact on the supplier's cost elements or overall cost. The BCSO may terminate the Contract and BCSO's performance for convenience if it feels price reductions are warranted, but the parties cannot reach an agreement on such price reductions.

26. Scrutinized Vendor List, Verification of Employment Eligibility and Foreign Influence: By acceptance of the Purchase Order, **VENDOR** certifies that:

26.1 Scrutinized Vendor List: it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to §215.4725, Florida Statutes, or engaged in a boycott of Israel; and, for bids, proposals or contracts for goods or services of one million (\$1,000,000) dollars or more, that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria, per §287.135, Florida Statutes. If BCSO determines, using credible information available to the public, that **VENDOR** has submitted a false certification, BCSO shall provide **VENDOR** with written notice of its determination. **VENDOR** shall have ninety (90) days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. If **VENDOR** does not make such demonstration within ninety (90) days after receipt of the notice, BCSO shall bring a civil action against **VENDOR**. If a civil action is brought and the court determines that **VENDOR** has submitted a false certification, **VENDOR** shall pay a civil penalty equal to the greater of two million (\$2,000,000) dollars or twice the amount of the contract for which the false certification was submitted, and all reasonable attorney fees and costs, including any costs for investigations that led to the finding of false certification; and, **VENDOR** will be ineligible to bid on any contract with an agency or local governmental entity for three (3) years after the date BCSO determined that **VENDOR** submitted a false certification, pursuant §287.135(5)(a) Florida Statutes.

26.2 Verification of Employment Eligibility:

In accordance with, §448.095, Florida Statutes, **VENDOR** shall register with and utilize the E-Verify System operated by the United States Department of Homeland Security to verify the employment eligibility of all new employees hired during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the E-Verify System to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract. If **VENDOR** enters into a contract with a subcontractor performing work or providing services on its behalf, **VENDOR** shall also require the subcontractor to provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Information on registration for and use of the E-Verify System can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Every **VENDOR** shall, upon request, provide evidence of compliance with this provision to the Sheriff/BCSO. Failure to comply with this provision is a material breach of an Agreement, and the Sheriff/BCSO may choose to terminate the Agreement at any time at its sole discretion. **VENDOR** may be liable for all costs associated with Sheriff/BCSO securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary).

The **VENDOR**, by virtue of acceptance of the Purchase Order certifies that:

1. The **VENDOR** and its Subcontractors are aware of the requirements of Florida Statute 448.095,

- and upon request from the Brevard Sheriff's Office, provide evidence of such compliance.
2. The VENDOR and its Subcontractors are registered with and using the E-Verify system to verify the work authorization status of newly hired employees.
 3. The VENDOR will not enter into a contract with any Subcontractor unless each party to the contract registers with and uses the E-Verify system.
 4. The Subcontractor will provide the VENDOR with an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with unauthorized alien.
 5. The VENDOR must maintain a copy of such affidavit.
 6. The Brevard Sheriff's Office may terminate this Contract on the good faith belief that the VENDOR or its Subcontractors knowingly violated Florida Statutes 448.09(1) or 448.095(2)(c).
 7. If this Contract is terminated pursuant to Florida Statute 448.095(2)(c), the VENDOR may not be awarded a public contract for at least 1 year after the date on which this Contract was terminated.
 8. The VENDOR is liable for any additional cost incurred by the Brevard Sheriff's Office as a result of the termination of this Contract.

26.3 Foreign Influence:

VENDOR represents and warrants that it has made any applicable disclosures to BCSO which are required under Florida Statute 286.101(3)(a) pertaining to business transactions with a foreign country of concern as more fully defined within said statute.

- 27. Entire Agreement:** These terms and conditions and any displaced or referenced in the Contract, including any exhibits, attachments and schedules attached to the Purchase Order, contains the sole and entire agreement between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or Purchase Order or any representations inducing the issuance and delivery of the Purchase Order except such representations as are specifically set forth herein, and the parties acknowledge that they have relied on their own judgment in entering into the same. The parties further acknowledge that any statements or representations that may have been made by either of them to the other are void and of no effect and that neither of them has relied on such statements or representations in connection with its dealings with the other. No "click on" or "click through" online agreements or terms/conditions found on the Website or any other communication by and between the parties shall alter, modify, supplement, or replace these terms and conditions contained herein or found, referenced or attached to the Purchase Order. No alteration of these terms and conditions is binding on BCSO unless signed by BCSO.

By commencing the services for BCSO or providing the goods to BCSO under this Purchase Order, you certify that you and/or the VENDOR you represent have reviewed and accept the above terms and conditions of contracting with the Brevard Sheriff's Office, and specifically certify you and/or the VENDOR's compliance with Paragraph 26, above, and that you are fully authorized to make such a representation and certification to BCSO and enter into these binding terms on behalf of the VENDOR providing these services and/or goods to BCSO.

- 28. Audit:** BCSO shall have the right to audit the books, records, and accounts of VENDOR that are related to this Agreement. VENDOR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of BCSO shall be kept in written form, or in a form capable of conversion into written form within a reasonable time and, upon request to do so, VENDOR shall make same available at no cost to BCSO in written form. BCSO'S reasonable expenses and professional fees incurred by BCSO related to such an audit shall be reimbursed by VENDOR if said audit reflects a variance in payments due BCSO that is deficient greater than five percent (5%) of the sums due

BCSO under this Agreement.

VENDOR shall preserve and make available, at reasonable times for examination and audit by BCSO, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by BCSO to be applicable to VENDOR's records, VENDOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by VENDOR. Any material entry that is incomplete or incorrect in such books, records, and accounts shall be a basis for BCSO's disallowance and recovery of any payment upon such entry.

29. Federal System for Award Management (SAM) database: Where funding, in whole or in part, is through a federal grant:

29.1 By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

29.2 The offeror shall provide in its response the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used to verify that the offeror is registered in the SAM database.

29.3 No award will be made to an offeror listed on the SAM Excluded list.

30. Remedy of Right to Seek Substitute Performance: If the VENDOR or its sub-VENDORS (if any), defaults or neglects to carry out the work in accordance with this Contract and fails within a ten (10) day period after receipt of written notice from BCSO to commence and continue correction of such default or neglect with diligence and promptness, BCSO may, without prejudice to other remedies the Brevard Sheriff's Office may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due VENDOR the reasonable cost of correcting such deficiencies, including BCSO's expenses and compensation for any additional services, made necessary by such default, neglect or failure. Notwithstanding the foregoing or any other provision within this Contract to the contrary, BCSO has a right to claim an anticipatory breach of the contract by VENDOR and can demand assurance of performance at any time and if said assurance of performance from VENDOR is inadequate, BCSO at its sole discretion may immediately impose the remedy of substitute performance described herein without tendering any further notices to VENDOR.

31. The following provisions apply where the Purchase Order is funded by Federal Grants or Programs or BCSO is seeking, or will seek, FEMA reimbursement for all or part of the consideration being paid to VENDOR:

31.1 Suspension and Debarment

31.1.1 If this Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, the VENDOR is required to verify that none of the VENDOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

31.1.2 The VENDOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

31.1.3 The Suspension and Debarment Certification attached to the Purchase Order regarding Debarment and Suspension is a material representation of fact relied upon by the Subgrantee if applicable as identified in this Contract (“Subgrantee”). If it is later determined that the VENDOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida, if applicable, then the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

31.1.4 The VENDOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The VENDOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

31.2 Byrd Anti-Lobbying Amendment: VENDORS who apply or bid for an award of \$100,000 or more or if the consideration to be paid to VENDOR is, or will be sought to be, subject to FEMA reimbursement effort by BCSO, then the VENDOR shall file the Byrd Anti-Lobbying Amendment Certification attached to the Purchase Order. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

31.3 Equal Employment Opportunity: During the performance of this Contract, the VENDOR agrees as follows:

31.3.1 The VENDOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The VENDOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The VENDOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

31.3.2 The VENDOR will, in all solicitations or advertisements for employees placed by or on behalf of the VENDOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

31.3.3 The VENDOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has

inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the VENDOR's legal duty to furnish information.

- 31.3.4** The VENDOR will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the VENDOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 31.3.5** The VENDOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 31.3.6** The VENDOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its/his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 31.3.7** In the event of the VENDOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the VENDOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 31.3.8** The VENDOR will include the portion of the sentence immediately preceding paragraph 31.3.1 herein and the provisions of the subparagraphs contained within this entire section 31.3 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subVENDOR or VENDOR. The VENDOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a VENDOR becomes involved in, or is threatened with, litigation with a subVENDOR or VENDOR as a result of such direction by the administering agency, the VENDOR may request the United States to enter into such litigation to protect the interests of the United States.

The VENDOR further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted

construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The VENDOR agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of vendors and subVENDORS with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The VENDOR further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a vendor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon VENDORS and subVENDORS by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the VENDOR agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the VENDOR under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such VENDOR; and refer the case to the Department of Justice for appropriate legal proceedings.

31.4 Davis-Bacon Act: When required by Federal program legislation and when applicable under federal law, VENDOR agrees that, for all BCSO prime construction contracts/purchases in excess of two million dollars (\$2,000,000) VENDOR shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, VENDOR is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, VENDOR shall pay wages not less than once a week. Current prevailing wage determinations issued by the Department of Labor are available at www.dol.gov. VENDOR agrees that, for any purchase to which this requirement applies, the award of the purchase to the VENDOR is conditioned upon VENDOR's acceptance of the wage determination. VENDOR further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "VENDOR and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each VENDOR or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

31.5 Compliance with the "Copeland Anti-Kickback" Act

31.5.1 Vendor: The VENDOR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, as supplemented by Department of Labor regulations and the requirements of 29 C.F.R.

pt. 3 (29 CFR Part 3, "CONTRACTOR and subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States") as may be applicable, which are incorporated by reference into the Contract. The forgoing Act provides that VENDOR, and/or subcontractor, and/or subrecipient, must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

31.5.2 Subcontracts: The VENDOR or subVENDOR shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subVENDORS to include these clauses in any lower tier subcontracts. The prime VENDOR shall be responsible for the compliance by any subVENDOR or lower tier subVENDOR with all of these Contract clauses.

31.5.3 Breach: A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a Vendor and subVENDOR as provided in 29 C.F.R. § 5.12."

31.6 Contract Work Hours and Safety Standards Act:

31.6.1 Overtime requirements: No Vendor or subVENDOR contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

31.6.2 Violation; liability for unpaid wages; liquidated damages: In the event of any violation of the clause set forth in paragraph (1) of this section the VENDOR and any subVENDOR responsible therefore shall be liable for the unpaid wages. In addition, such VENDOR and subVENDOR shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (31.6.1) of this section, in the sum of twenty-six dollars (\$26) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (31.6.1) of this section.

31.6.3 Withholding for unpaid wages and liquidated damages: The applicable Federal agency or the loan or grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the VENDOR or subVENDOR under any such Contract or any other Federal Contract with the same prime VENDOR, or any other federally-assisted Contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime VENDOR, such sums as may be determined to be necessary to satisfy any liabilities of such VENDOR or subVENDOR for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (31.6.2) of this section.

31.6.4 Subcontracts: The VENDOR or subVENDOR shall insert in any subcontracts the clauses set forth in paragraph (31.6.1) through (31.6.4) of this section and also a clause requiring the subVENDORS to include these clauses in any lower tier subcontracts. The prime VENDOR shall be responsible for compliance by any subVENDOR or lower tier subVENDOR with the clauses set forth in paragraphs (31.6.1) through (31.6.4) of this section.”

31.7 Notice of Federal Emergency Management Agency (FEMA) Reporting Requirements and Regulations

31.7.1 General: The applicable state agency or the local or Indian tribal government entity is using Public Assistance grant funding awarded by FEMA to BCSO to pay, in whole or in part, for the costs incurred under this Contract. As a condition of Public Assistance funding under (major disaster or emergency) declaration, FEMA requires BCSO to provide various financial and performance reporting.

31.7.1.1 It is important that the VENDOR is aware of these reporting requirements, as the applicable state agency or the local or Indian tribal government entity may require the VENDOR to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to BCSO which, in turn, will enable BCSO to satisfy reporting requirements to FEMA.

31.7.1.2 Failure of BCSO to satisfy reporting requirements to FEMA, or other applicable federal or state agencies, could be considered a material breach of the FEMA-State Agreement, or other federal and/or state laws and regulations, and could result in loss of Federal financial assistance awarded to fund this Contract, or materially endanger BCSO’s attempts at seeking reimbursement from FEMA, or applicable comparable state level agency, or grant funder (if government grant funds are the source of the payments to VENDOR).

31.7.2. Applicable Regulations and Policy: The applicable regulations, FEMA policy, and other sources setting forth these reporting requirements are as follows:

31.7.2.1 44 C.F.R. § 13.40 (Monitoring and Reporting Program Performance)

31.7.2.2 44 C.F.R. § 13.41 (Financial Reporting)

31.7.2.3 44 C.F.R § 13.50(b) (Reports)

31.7.2.4 44 C.F.R. § 206.204(f) (Progress Reports)

31.7.2.5 FEMA Standard Operating Procedure No. 9570.14, *Public Assistance Program Management and Grant Closeout Standard Operating Procedure* (Dec. 2013)

31.7.2.6 FEMA-State (or Tribal) Agreement.

31.7.3. Financial Reporting: BCSO is required to submit to the following financial reports to FEMA:

31.7.3.1 Initial Report: An initial Federal Financial Report (SF 425) no later than thirty (30) days after FEMA has approved the first Public Assistance project.

31.7.3.2 Quarterly Reports: Following submission of the initial report, quarterly Federal Financial Reports until submission of the final report described in the

following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.

31.7.3.3 Final Report: A final Federal Financial Report within ninety (90) days of the end of the period of performance for the Public Assistance grant.

31.7.4 Performance Reporting: BCSO is required to submit to the following performance reports to FEMA:

31.7.4.1 Initial Report: An initial performance report no later than 30 days after FEMA has approved the first Public Assistance project.

31.7.4.2 Quarterly Reports: Following submission of the initial report, quarterly performance reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.

31.7.4.3 Final Report: A final performance report within ninety (90) days of the end of the period of performance for the Public Assistance grant.

31.8 Clean Air Act:

31.8.1 The VENDOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*

31.8.2 The VENDOR agrees to report each violation to the Brevard County Sheriff's Office and understands and agrees that the Brevard County Sheriff's Office will, in turn, report each violation as required to assure notification to the Brevard Sheriff Office, any other Grantee and/or Recipient identified in this Bid or as may later be identified, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

31.8.3 The VENDOR agrees to include these requirements in each subcontract exceeding one-hundred fifty thousand dollars (\$150,000) financed in whole or in part with Federal assistance provided by FEMA.

31.9 Federal Water Pollution Control Act:

31.9.1 The VENDOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*

31.9.2 The VENDOR agrees to report each violation to the Brevard County Sheriff's Office and understands and agrees that the Brevard County Sheriff's Office will, in turn, report each violation as required to assure notification to the Brevard Sheriff Office, any other Grantee and/or Recipient identified in this Bid or as may later be identified, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office

31.9.3 The VENDOR agrees to include these requirements in each subcontract exceeding one-hundred thousand dollars (\$100,000) financed in whole or in part with Federal assistance provided by FEMA.”

31.10 Energy Conservation: The VENDOR agrees to comply with mandatory standards and

policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.”

31.11 Procurement of Recovered Materials: For BCSO purchases utilizing Federal Funds, VENDOR agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certification to BCSO, BCSO may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage for recovered material practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand (\$10,000) dollars or the value of the quantity acquired during the preceding fiscal year exceeds ten thousand (\$10,000) dollars; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for the procurement of recovered materials identified in the EPA guidelines.

31.11.1 In the performance of this Contract, the VENDOR shall make maximum use of products containing recovered materials that are EPA-designated items, unless the product cannot be acquired competitively, within a timeframe providing for compliance with the contract performance schedule, meeting contract performance requirements, or at a reasonable price.

31.11.2 Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

31.11.3 The VENDOR also agrees to comply with all other applicable requirements of Section 6002 of the “Solid Waste Disposal Act.”

31.12 Right to Inventions Made Under a Contract or Agreement

If the BCSO Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. VENDOR agrees to comply with the above requirements when applicable.

31.13 Profit as a Separate Element of Price

For purchases using federal funds in excess of \$150,000, BCSO may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.323(b). When required by BCSO, VENDOR agrees to provide information and negotiate with BCSO regarding profit as a separate element of the price for a particular purchase. However, VENDOR agrees that the total price, including profit, charged by VENDOR to BCSO’s shall not exceed the awarded pricing, including any applicable discount, under this Contract.

31.14 Retention of Records

The VENDOR agrees to maintain all books, records, accounts and reports required under

this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case VENDOR agrees to maintain same until the (name of the state agency or local or Indian tribal government), (name of grantee), the FEMA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims.”

31.15 Access to Records

31.15.1 The VENDOR agrees to provide the Brevard County Sheriff's Office, any involved federal or state agency or subdivisions of the said agencies, and any other Grantee and/or Recipient identified in this Contract or in the Purchase Order or as may later be identified, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the VENDOR which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.

31.15.2 The VENDOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

31.15.3 The VENDOR agrees to provide any involved federal or state agency or subdivisions of the said agencies, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives or authorized representative's, access to construction or other work sites, pertaining to the work being completed under the Contract.

31.15.4 In compliance with the Disaster Recovery Act of 2018, the Brevard County Sheriff's Office and the VENDOR acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

31.16 Use of DHS Logos and Seal: The VENDOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

31.17 Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance may be used to fund the Contract, or BCSO may seek reimbursement of all, or a portion of the payments made to the VENDOR, under the Contract. By entering the Contract, the VENDOR agrees to comply will all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

31.18 No obligation by the Federal Government: The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, VENDOR, or any other party pertaining to any matter resulting from the Contract.

31.19 Program Fraud and False or Fraudulent Statements or Related Acts: The VENDOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the VENDOR's actions pertaining to this Contract.

31.20 Changes: For purposes of BCSO's eligibility to receive FEMA assistance, VENDOR acknowledges that the cost of any change, modification, change order, or constructive

change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. VENDOR agrees to provide written notice to BCSO of any change of method, price or schedule of work by the VENDOR which must then be agreed to in writing by BCSO. It is the intent of the Parties, to allow for BCSO to seek maximum recovery of a portion, or all, of the payments made to VENDOR, under the Contract, when BCSO is eligible to do so under federal law and/or FEMA'S regulations. Therefore, to the maximum extent possible: (1) any provision contained within this Contract which prevents or obstructs BCSO from seeking or qualifying for FEMA reimbursement for the payments made to the VENDOR under the Contract; or (2) any mandatory contractual provision is absent from this Contract that would prevent BCSO from seeking or qualifying for FEMA reimbursement for the payments expended to the VENDOR, under the Contract, then the BCSO and the VENDOR agrees that the Contract shall be automatically amended at any time, without any further action, by either party to modify, change, delete, or add any such contractual provision in order to allow BCSO to conform to the requirements contained within Appendix II to the Uniform Rules (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) under 2 C.F.R. §200.326 and 2 C.F.R. Part 200 and BCSO and the VENDOR shall be bound by such modification, change, deletion, or addition of any such contractual provision.

31.21 Domestic Preference for Procurements: As appropriate, and to the extent consistent with law, the Vendor should, to the greatest extent practicable, provide a domestic preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

31.22 Conflicting Terms: In the event of any inconsistency or conflict between Section 31 of this Agreement and Sections 1 through 30 of this Agreement and where the Purchase Order is funded by Federal Grants or Programs, then the terms, conditions and provisions of Section 31 of this Agreement shall govern and control. In all other respects, this Agreement, as amended and supplemented hereby, shall remain in full force and effect.