

**SOUTH PASADENA FIRE CONTROL DISTRICT
FIRE PROTECTION SERVICES
AGREEMENT**

SEPTEMBER, 2012

**PINELLAS COUNTY
Board of County Commissioners
12490 Ulmerton Road
Largo, FL 33774**

FIRE PROTECTION SERVICES AGREEMENT

THIS AGREEMENT made this 6th day of SEPTEMBER 2012, between ___ City of St. Petersburg, Florida, ("Contractor"), and PINELLAS COUNTY ("County"), by and through its Board of County Commissioners ("Board"), on behalf of the South Pasadena Fire Control District ("District").

RECITALS:

1. The Board has determined that a coordinated Fire Protection Services County-wide system with centralized communications, standardized operating procedures, and automatic aid is in the best interest of the public's life safety, protection of property and firefighters' safety and welfare.

2. Pursuant to County Resolution 92-355 and the subsequent referendum election thereon, the Board created the South Pasadena Fire Control District to provide fire protection and suppression services to the District.

3. The Board is authorized to enter into agreements for fire protection services, and Contractor wishes and is able to provide Fire Protection Services (as defined herein).

4. The Board will compensate Contractor for providing Fire Protection Services (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions herein set forth to be kept and performed by and between the parties hereto, it is agreed as follows:

THE AGREEMENT

1) PURPOSE. The purpose of this Agreement is to define the obligations and responsibilities of the County and Contractor (collectively "Parties") hereto with respect to the provision of Fire Protection Services for the District.

2) COOPERATION. The Parties shall cooperate and use all reasonable efforts, pursuant to the terms of this Agreement, to facilitate the terms of this Agreement. Accordingly, the Parties further agree in good faith to mutually undertake resolution of disputes, if any, in an equitable and timely manner so as to limit the need for costly and time-consuming adversarial proceedings to resolve such disputes.

3) CONTRACT DOCUMENTS. The following Appendices are attached to and made part of this Agreement:

Appendix A. Fire Districts

This Agreement, together with the foregoing Appendices, constitutes the entire Fire Protection Services Agreement between the Parties with respect to the provision of Fire Protection Services, and shall supersede any prior agreement, contract or memorandum of understanding between the Parties regarding such services. This Agreement is not intended to address or change the terms of Emergency Medical First Response to the extent that such response is governed by any Automatic Aid/Closest Unit Response Agreement. The Parties agree that the terms and conditions of this Agreement, including the Appendices, shall govern exclusively the obligations of the Parties.

4) SCOPE OF SERVICES. The services performed by Contractor under this Agreement include, but are not limited to, the following:

- a. Respond with Firefighting Apparatus and Personnel to the scene of a fire, life safety related emergency, man-made or natural disaster or public service request.
- b. Take command and control of the emergency scene, contain any fire and mitigate any hazards at a fire scene.
- c. Investigate any fire within the District to determine the cause and origin.
- d. Inspect all commercial, industrial and multi-family dwellings within the District for compliance with the Florida Fire Prevention Code.
- e. Conduct plan reviews, as requested by the County's Building and Development Review Services Department ("Building Department"), fire inspections, sprinkler tests, fire alarm tests and final fire inspections within the District, in accordance with the Florida Fire Prevention Code.
- f. Conduct and maintain immediate access to fire pre-plan documents for all commercial, industrial and multi-family dwellings within the District. Provide education programs to the public in fire prevention, life safety and disaster preparedness.
- g. Upon notification by the 9-1-1 Center of an emergency request, Contractor shall provide Fire Protection Services in accordance with the Automatic Aid/Closest Unit Response Agreement. The Firefighting Apparatus and Unit(s) which are predetermined to be the closest to the emergency scene by the Run Cards shall be dispatched without regard to fire district or jurisdictional boundaries.
- h. Response times must meet the minimum standards as established in this Agreement.

- i. The allotted Firefighting Apparatus must at all times be operable, equipped and staffed with a minimum of three (3) Personnel to operate on all emergency and non-emergency calls. Apparatus staffing must include at least one firefighter that is trained and designated as a Company Officer. All assigned personnel will, at a minimum, meet the requirements as defined in Chapter 633, Florida Statutes.
- j. Performance must be consistent with approved fire standards and compliant with Section 600 Pinellas County Fire Department Standard Operating Procedures.
- k. Conduct of Personnel must be professional and courteous at all times. Crews must wear uniforms that clearly identify them as fire department personnel.
- l. The Contractor is responsible to insure that equipment is maintained for optimal performance.
- m. The Contractor shall require personnel to gather and enter data into the electronic fire reporting system furnished by Pinellas County for every incident responded to by the Contractor. The Company Officer is responsible for insuring the accuracy and completeness of such reports.
- n. Upon notification of a State of Emergency within Pinellas County, Contractor will coordinate its firefighting resources with the County's Office of Emergency Management, given the nature of the event or disaster, and shall proceed in accordance with applicable plans and protocols.

Such services, contained herein, shall be provided in accordance with the terms and conditions of this Agreement.

5) DEFINITIONS - Unless the context otherwise requires, capitalized terms used herein shall have the following meanings ascribed to them:

"Automatic Aid/Closest Unit Response Agreement" means the agreement by and between every political subdivision and fire control district within Pinellas County dated October 16, 1990.

"Board" means the Pinellas County Board of County Commissioners.

"CAD" means computer aided dispatch.

"Caller" means a person accessing the response system by telephone.

"Contract Year" means, for any given year, the period commencing on October 1 and ending at midnight on September 30 of the following year.

"Contractor" means the provider of Fire Protection Services under this Agreement.

"County" means Pinellas County, Florida, a political subdivision of the State of Florida.

"District" means the South Pasadena Fire Control District.

“Emergency Request” means a request for emergency services received directly at the 9-1-1 Center.

“Emergency Response” means, for the purposes of measuring Response Time compliance in this agreement, the act of responding to a request for services in which Contractor determined that red lights and sirens will be used.

“Fire Equipment” means the equipment and tools necessary to equip and operate Firefighting Apparatus in accordance with the applicable NFPA guidelines.

“Firefighter” means individuals, trained and certified in accordance with Chapter 633, Florida Statutes, as applicable, that function as firefighters, fire officers, and command officers employed by Contractor.

“Firefighting Apparatus” means emergency vehicles, either existing equipment owned by the Contractor or purchased through the use of District funds, which are constructed and equipped to meet or exceed NFPA 1901 Class A requirements for an emergency pumping vehicle. Such vehicles are used for rapid response to an emergency scene and the suppression and containment of a fire or other hazard.

“Fire Protection Services” means the response of Firefighting Apparatus, Units and Personnel to the scene of a fire, life safety emergency, man-made or natural disaster or public service request. Fire Protection Services include the command and control of the emergency scene, the containment of any fire, and the mitigation of any hazards, and may include specialized rescue. Related services include fire and arson investigation, fire inspections and code enforcement, and public education.

“Fire Protection System” means the network of organizations, including, but not limited to, the Pinellas County Fire Protection Authority, the Board, contractors, and other municipalities within Pinellas County, established to provide Fire Protection Services.

“Fiscal Year” means the year commencing on October 1 of any given year and ending on September 30 of the immediately succeeding year.

“Florida Fire Prevention Code” means fire and life safety codes adopted by County, in accordance with Chapter 62, Article III, of the Pinellas County Code.

"Force Majeure" means any act, event, or condition other than a labor strike, work stoppage, or slowdown that has had, or may reasonably be expected to have, a direct material adverse effect on the rights or obligations of either Party under this Agreement, if such act, event, or condition is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation, or complying with any condition required, of such Party under this Agreement, and is not the result of willful or negligent action or a lack of reasonable diligence of the Party relying thereon. Such acts or events may include, but shall not be limited to, an act of God, epidemic, landslide, or similar occurrence, an act of the public enemy, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence.

"NFPA" is County's currently-adopted National Fire Protection Association guidelines for Personnel, Fire Equipment, Firefighting Apparatus and Units, as may be amended.

"Party" or "Parties" means either the County or Contractor, or both, as the context of the usage of such term may require.

"Personnel" means individuals trained and certified in accordance with Chapter 633, Florida Statutes, as applicable, who function as Firefighters, fire officers, fire inspectors, arson investigators, and command officers employed by Contractor.

"9-1-1 Center" means the Public Safety Answering Point operated and maintained by the County for the purpose of receiving 9-1-1 calls from citizens.

"Response Time" means the period of time commencing when a Firefighting Apparatus or Unit is dispatched to an emergency and ending when it arrives on the scene of the incident.

"Run Cards" means the 9-1-1 Center's computer-aided dispatch software database that recommends, based upon the call location, the closest or most appropriate Firefighting Apparatus and/or Units to respond to the Emergency Request. The Run Cards will be based upon a predetermined listing of Firefighting Apparatus and Units which Contractor and Board determined to be the closest by travel time or in the most appropriate order.

"State" means the State of Florida.

“State of Emergency” means any applicable event or disaster declared as an emergency by a proclamation of the Federal Government, the State, the County, or a municipality within the County pursuant to their applicable legal authority.

“Unit(s)” means emergency vehicles operated by Contractor which are constructed and equipped, as applicable, and are used for rapid response to an emergency scene which do not meet the NFPA 1901, Class A, pumping guidelines. Units may include, but not be limited to, ladder trucks, squads, reserve pumpers, brush trucks, water tankers, specialized rescue units, and command or staff vehicles.

6) TERMS GENERALLY. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation,” except as the context may otherwise require. The words “agree,” “agreement,” “approval,” and “consent” shall be deemed to be followed by the phrase “which shall not be unreasonably withheld or unduly delayed,” except as the context may otherwise require.

REPRESENTATIONS

7) REPRESENTATIONS OF CONTRACTOR. Contractor represents and warrants to County that each of the following statements is presently true and correct:

(a) Existing. Contractor is a Florida municipal corporation, independent special district, or corporation, as the case may be, having all requisite power and authority in Florida to carry on its business as now conducted, to own or hold or otherwise its properties, and to enter into and perform its obligations under this Agreement and under each instrument described herein to which it is or will be party.

(b) Due Authorization. This Agreement has been duly authorized by all necessary action on the part of, and has been duly executed and delivered by Contractor, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof, contravenes any existing law, judgment, government rule, regulation, or order applicable to or binding on the County.

(c) **Enforceability.** This Agreement constitutes a legal, valid, and binding obligation of Contractor enforceable against Contractor in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws, from time to time in effect, which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) **No Litigation.** There are no pending, or to the knowledge of Contractor, threatened actions or proceedings before any court or administrative agency to which Contractor is a party, questioning the validity of this Agreement or any document or action contemplated hereunder, or which are likely, in any case or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder.

(e) **Financial Capability.** Contractor is fully capable, financially and otherwise, to perform its obligations hereunder subject to availability of funds lawfully appropriated for the purposes provided in this Agreement.

DUTIES AND RESPONSIBILITIES OF CONTRACTOR

8) FIREFIGHTING APPARATUS AND EQUIPMENT.

(a) **Obligation to Provide Firefighting Apparatus and Units.** Contractor may select and acquire Firefighting Apparatus and Units used in the performance of this Agreement.

(b) **Maintenance of Vehicles and Fuel.** Contractor shall be responsible for routine maintenance and repair of all Firefighting Apparatus and Units, and for furnishing maintenance, equipment, supplies, repairs, spare parts, replacement vehicles, and fuel. Contractor shall maintain Firefighting Apparatus and Units in safe and proper working order.

(c) **Staffing of Vehicles.** The desired level of staffing shall be four (4) crew members. Firefighting Apparatus shall be continuously staffed daily with a minimum of three (3) Firefighters, one of which is certified at the Company Officer level.

(d) **Fire Equipment.** Contractor shall furnish and maintain all Fire Equipment required to meet the terms of this Agreement.

(e) **Communications Equipment.** Contractor shall furnish and maintain all communications equipment including, but not limited to, station radios and encoders, mobile radios, portable radios, pagers, and cellular phones, as Contractor deems appropriate.

(f) **Command Officers.** In addition to the personnel provided in (c) above, Contractor will provide its own or, through the use of automatic aid, command officers to respond to incidents within the District.

9) RESPONSE TIME.

(a) Emergency Requests.

Response Time shall be such that not less than ninety percent (90%) of all Emergency Requests which are (1) categorized as a structure fire or a fire alarm; (2) within the District; and (3) for which Contractor's Firefighting Apparatus is predetermined to be the first due Firefighting Apparatus, shall be within seven (7) minutes and thirty (30) seconds or less.

(b) Exemptions.

(1) The Response Time requirements in this subsection (a) shall not be applicable to responses which occur during periods of Force Majeure provided, however, that Contractor shall document said conditions and shall apply for this exception as provided for in subparagraph (2) below. The calculation for determining compliance with Response Time performance shall be made by the County on a monthly basis.

(2) Should Contractor experience a Force Majeure, Contractor shall, as a condition precedent to the right to claim a Force Majeure, notify the County within three (3) business days of when Contractor becomes aware of the Force Majeure.

(3) Downgraded calls which occur, based on additional information such as from 9-1-1 or first Unit arrival, will be excluded from determining Response Time performance.

(4) The exemptions provided for in this subsection (b) are exhaustive and no other cause of poor Response Time performance shall be allowed as exemption to these Response Time requirements and reporting provisions.

10) CONTINUING EDUCATION AND TRAINING. Contractor shall make available the necessary continuing education and training for maintaining the skill, competency, and required certifications for all Personnel, as required by federal, state, or local regulation.

11) STANDARD PRACTICES

(a) **Standard Practices**. Contractor shall insure that its policies and standard operating procedures and actions are consistent with those countywide standard operating procedures approved by the Pinellas County Fire Chiefs Association at all times and shall correct any deviations.

(b) **Ride-Alongs**. Contractor may allow the Board or its representative, in the performance of their duties, to ride in Contractor's Firefighting Apparatus or Units during responses to Emergency Requests. Such representatives shall conduct themselves in a professional and courteous manner, shall not interfere with Contractor's employees in the performance of their duties, and shall at all times be respectful of Contractor's employee/employer relationship. The Board, or its representatives, shall provide proof of employment, proof of workers' compensation insurance, and complete any waiver or release forms which may be required by Contractor prior to riding in Contractor's Firefighting Apparatus or Units. Such ride-alongs shall be scheduled or prearranged with Contractor.

12) PERSONNEL

(a) **Training and Qualifications**. All Personnel employed by Contractor in the performance of work under this Agreement shall be trained and qualified at a level consistent with Chapter 633, Florida Statutes, and shall hold appropriate certificates as required by state law.

(b) **Standard of Conduct**. Contractor's Personnel shall conduct themselves in a professional and courteous manner at all times. Contractor shall address and correct any departures from their standard of conduct.

(c) **Working Conditions**. Contractor shall insure that it is in compliance with all applicable state and federal laws and regulations regarding labor conditions, workplace and working conditions, and environmental safety requirements.

13) DISASTER ASSISTANCE AND MUTUAL AID

(a) **Disaster Assistance Within Pinellas County.** Immediately upon notification by either Party of a State of Emergency within Pinellas County, Contractor shall commit such resources as are necessary and appropriate, and given the nature of the event or disaster, shall proceed in accordance with applicable plans and protocols. During such periods, Contractor shall notify the County and shall be released from the performance requirements in this Agreement. When State of Emergency assistance has been terminated, Contractor shall promptly notify the County that Contractor is able to resume normal operations.

(b) **Emergency/Disaster Assistance Outside of Pinellas County.** If Contractor provides emergency or disaster assistance response outside of Pinellas County, it shall be provided in a manner which does not jeopardize Contractor's ability to render reliable services under this Agreement.

(c) **Mutual Aid.** Normal (non-disaster related) mutual aid responses outside of Pinellas County, rendered by Contractor, shall be provided in a manner which does not jeopardize Contractor's ability to render reliable services under this Agreement.

14) AUTOMATIC AID/CLOSEST UNIT RESPONSE. Upon notification by the 9-1-1 Center of an Emergency Request, Contractor shall provide Fire Protection Services in accordance with the Automatic Aid/Closest Unit Response Agreement. The Apparatus and Unit(s) which are predetermined to be the closest to the emergency scene by the Run Cards shall be dispatched without regard to fire district or jurisdictional boundaries. Contractor's authorized representative will periodically, or at the request of the County, update their Run Cards to insure their accuracy and coordinate any changes with any affected Contractor(s). The County, with the consent of Contractor, may update and manage the applicable Run Cards.

15) FIRE REPORTING SYSTEM. Contractor shall gather and enter data into the countywide electronic fire reporting system provided by the County for every Emergency Request responded to by Contractor's Personnel.

The database of the electronic fire reporting system shall be fully comprehensive, including complete and integrated information on all Fire Protection System activities. Contractor shall require its Personnel to comply with the completion of all fire incident reports and data entry requirements to insure the accuracy and completeness of such reports, as approved and periodically revised, by Contractor and the County.

Contractor shall have unlimited access, regardless of storage location or medium, to electronic fire reports generated by Contractor's Personnel and all dispatch-related data in a mutually-agreeable format.

16) FIRE INVESTIGATION. Contractor shall investigate all fires to determine the cause and origin. The investigation of all fires determined to be of a suspicious nature shall be coordinated with the appropriate law enforcement agency and other regulatory or investigative agencies, as applicable.

17) FIRE PREVENTION AND CODE ENFORCEMENT.

(a) **Fire Inspections.** Contractor shall conduct periodic fire inspections of all commercial, industrial, and multi-family dwellings in the unincorporated area of the District, in accordance with the Fire Prevention Code. Contractor shall ensure that water flow testing, fire alarm testing, and other related services or inspections are conducted, as required by law. Any user fees charged by the Contractor for Fire Inspections shall be approved in advance by the Board. If the Contractor provides fire inspections within any other jurisdiction; the user fee charged within the District shall not exceed those fees charged within the Contractor's municipal area. The County is not responsible for any payments associated with fire inspections.

(b) **Plan Review and Final Fire Inspections.** Contractor shall conduct plan reviews, fire inspections, sprinkler tests, fire alarm tests, final fire inspections, and other related services in the District, in accordance with the Florida Fire Prevention Code. County shall make building plans available to the Contractor for pickup and review. Final inspections shall be on the date and time agreed to by the building contractor, Contractor's Fire Department and the County's Building Department. Any fees charged by the Contractor for plan reviews and final fire inspections shall not exceed those fees charged within the Contractor's municipal area and must be approved in advance by the Board. The County is not responsible for any payments associated with Plan Reviews and Final Fire Inspections.

(c) **Code Enforcement Standards.** Contractor shall interpret and enforce the Florida Fire Prevention Code, as may be amended, consistent with the interpretations of the prevailing regulatory authority or the Pinellas County Construction and Licensing Board. Contractor shall interpret and enforce only the Fire Prevention Code, and shall not interpret or enforce any building codes in the unincorporated area, except as they relate to fire or life safety issues.

(d) **Complaint Resolution.** Any complaints received by County from builders, contractors, property owners, or citizens relating to plan reviews, fire inspections, sprinkler tests, fire alarm tests, final fire inspections, and other related services in the unincorporated area of the District, will be forwarded to Contractor for investigation. Contractor will forward to the County a detailed report concerning the incident, and outline any appropriate remedial action taken. The County reserves the right to investigate all complaints and to recommend remedial actions.

18) AUDIT AND INSPECTION. Representatives of the Board may observe Contractor's operations at any time and as often as may reasonably be deemed necessary. Contractor shall make available to County for its examination, its records with respect to all matters covered by this Agreement. County's right to observe and inspect records in Contractor's business office shall, however, be restricted to normal business hours, and reasonable notification shall be given Contractor in advance of any such visit. Records relating to contract activities shall be retained for three (3) years from final payment in each year. County shall pay any reasonable costs for copying any materials requested.

19) COMMUNICATIONS INFRASTRUCTURE. County shall furnish and maintain, at no cost to Contractor, the communications infrastructure which shall include: emergency (9-1-1) and non-emergency telephone access, dispatch communication services, the public safety radio system, and the CAD and Fire Reporting Computer System.

INSURANCE

20) MINIMUM INSURANCE REQUIREMENTS. The Contractor shall be self-insured or shall pay for, obtain and maintain, and require any sub-contractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. Where applicable, Contractor shall submit to the County a letter from Contractor's Risk Manager stating that the Contractor is self-insured, or the amount of insurance per claim and per occurrence, any gap and the amount of excess insurance up to its coverage. Notwithstanding anything to the contrary contained in this Agreement, Contractor does not waive any immunity or limitation of liability it may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

The following insurance coverages and requirements shall remain in effect throughout the Term of this Agreement (unless Contractor is self-insured, in which Contractor shall not be required to comply with the following insurance requirements):

1. Within ten (10) calendar days after contractor receipt of notice of award, the Contractor shall provide the County with properly executed Certificates of Insurance to evidence compliance with the insurance requirements of the Agreement. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). A copy of the endorsement(s) referenced in paragraph three (3) for Additional Insured shall be attached to the certificate(s).
2. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.
3. No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County, if applicable. Approval by the County of any Certificate of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsements, at any time during the RFP and/or contract period.
4. All policies providing liability coverage(s), other than professional liability and worker's compensation policies obtained by the Contractor to meet the requirements of the Agreement shall be endorsed to include Pinellas County Board of County Commissioners as an Additional Insured.
5. If any insurance provided pursuant to the Agreement expires prior to the completion of the Work, renewal Certificates of Insurance and endorsements shall be furnished by the Contractor to the County at least thirty (30) days prior to the expiration date.
6. Contractor shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Contractor from its insurer. Notice shall be given by certified mail to: Pinellas County Purchasing Department, 400 S. Ft. Harrison Avenue, 6th Floor, Clearwater, Florida 33756; and nothing contained herein shall absolve Contractor of this requirement to provide notice.

7. Should the Contractor, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement, or at its sole discretion may purchase such coverages necessary for the protection of the County and charge the Contractor for such purchase. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance shall in no way be construed to be a waiver of any of its rights under the Agreement.
8. Each insurance policy shall include the following terms and/or conditions in the policy:
- (a) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Contractor.
 - (b) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 - (c) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County's Self-Insured Retentions of whatever nature.
 - (d) All policies shall be written on a primary, non-contributory basis.
 - (e) Any certificate of insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the certificate of insurance. The County shall have the right, but not the obligation to determine that the contractor is only using employees named on such list to perform work for the County. Should employees not named be utilized by contractor, the County, at its option may stop work without penalty to the county until proof of coverage or removal of the employee by the contractor occurs, or alternatively find the contractor to be in default and take such other protective measures as necessary.
 - (f) Insurance policies, other than Professional Liability, shall include waivers of subrogation in favor of Pinellas County.

9. For projects with a Completed Operations exposure, Contractor shall maintain coverage and provide evidence of insurance for two (2) years beyond final acceptance. The insurance requirements for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

(A) Workers' Compensation Insurance

Limit	Florida Statutory
Employers Liability Limits	
Per Employee	\$ 100,000
Per Employee Disease	\$ 100,000
Policy Limit Disease	\$ 500,000

(B) Commercial General Liability Insurance including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operation and Personal Injury.

Limits

General Aggregate	\$ 2,000,000
Products/Completed Operations Aggregate	\$ 1,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
Each Occurrence	\$ 1,000,000

(C) Business Automobile or Trucker's/Garage Liability Insurance covering owned, hired and non-owned vehicles. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Contractor can show that this coverage exists under the Commercial General Liability policy.

Limit

Per Accident	\$ 1,000,000
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(D) Excess or Umbrella Liability Insurance excess of the primary coverage required , in paragraphs (A), (B), and (C) above:

Limits

General Aggregate	\$ 4,000,000
Each Occurrence	\$ 4,000,000

(E) Professional Liability Insurance (Errors and Omissions) with at least minimum limits as follows. If "claims made" coverage is provided, "tail coverage" extending three (3) years beyond completion and acceptance of the project with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage", Contractor may submit annually to the County, for a three (3) year period, a current certificate of insurance providing "claims made" insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

General Aggregate	\$ 5,000,000
Each Occurrence or Claim	\$ 5,000,000

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

(F) Pollution Legal/Environmental Legal Liability Insurance for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage. Coverage should include and be for the at least the minimum limits listed below:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 2) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
- 3) Cost of Cleanup/Remediation.

Limits

General Aggregate	\$ 2,000,000
Each Occurrence	\$ 2,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

(G) Crime/Fidelity/Financial Institution Insurance coverage shall include Clients' Property endorsement similar or equivalent to ISO form CR 04 01 05 06, with at least minimum limits as follows:

Limits

General Aggregate	\$ 1,000,000
Each Occurrence	\$ 1,000,000

(H) Property Insurance Contractor will be responsible for all damage to its own property, equipment and/or materials.

21) COMPENSATION. As consideration for such Fire Protection Services, as described herein, the County shall pay Contractor annual compensation. Contractor shall be paid monthly in arrears and payments shall be (approximately) equal installments beginning November 2012. Annual compensation shall be equal to \$75,000, the amount submitted in the Contractor's bid submission in response to Pinellas County Invitation to Bid 112-

0362- B. The annual compensation under this Agreement cannot exceed the lesser of the assessed millage for the District as assessed by the Board, or the millage cap, which is 5 mills.

22) FUNDS TO BE USED SOLELY FOR FIRE PROTECTION SERVICES. Contractor recognizes that funds provided pursuant to the Agreement are derived from ad valorem taxes collected within the District, and must be dedicated solely to the provision of Fire Protection Services. Contractor, therefore, agrees that funding provided under this Agreement will be used strictly for the provision of the services described herein. Contractor shall not use funds for non-operating purposes including, but not limited to, gifts, donations, good will, and travel expenses in excess of rates specified by applicable law, municipal policy, or Section 112.061, Florida Statutes.

23) FISCAL NON-FUNDING. The funds to be used for services performed pursuant to the Agreement are subject to periodic appropriation of funds by Board. If funds are not appropriated by Board for any or all of this Agreement, neither the Board nor County shall be obligated to pay for any services performed under this Agreement beyond the portion for which funds are appropriated. Such failure of appropriation shall not constitute a breach of this Agreement. County agrees to promptly notify Contractor in writing of such failure of appropriation, and this Agreement shall terminate on the last day of the then current Fiscal Year.

TERM AND TERMINATION

24) TERM OF AGREEMENT. This Agreement shall take effect on October 1, 2012, and shall continue through September 30, 2017, unless terminated or renewed in accordance with this Agreement. The Agreement may be extended for one additional five (5) year term through a written mutual agreement between the Contractor and the County. Written notice of intent to extend this Agreement or notification that the Agreement will not be extended must be provided no later than 180 days prior to the termination of this Agreement.

25) TERMINATION AND DISPOSITION OF ASSETS.

(a) Termination by Board for Convenience. County may terminate this Agreement by serving upon Contractor a ninety (90) calendar day written notice of County's intention to terminate this Agreement; however, shorter notice may be given if the County determines an emergency situation exists requiring such action.

Upon the effective date of termination of the Agreement, the County is not obligated to pay Contractor for Fire Protection Services, nor is Contractor obligated to provide Fire Protection Services, as defined in this Agreement, except as may be required by any other applicable agreement(s).

(b) Termination by Board for Performance Deficiency. In the event that the County finds any deficiency in meeting the level of services described herein which affects, or may affect, the performance of services hereunder, County shall notify Contractor of such deficiency, or deficiencies, and shall give Contractor thirty (30) days from receipt of such notice within which to cure such deficiency to the satisfaction of County. County may, in its sole discretion, extend the cure period. In the event of such extension, Contractor and County shall prepare an agreement outlining a planned program for curing the deficiency.

(c) Termination by Contractor. Contractor may terminate the Agreement by giving to County ninety (90) calendar days written notice of its intention to terminate.

(d) Disposition of Assets. Contractor represents that it currently owns equipment sufficient to perform the obligations under this Agreement. To the extent that additional equipment or assets are purchased by Contractor during the term of this Agreement, with funds paid as compensation under this Agreement or otherwise, Contractor shall maintain ownership of such equipment or assets upon the termination of this Agreement unless specifically agreed to otherwise in writing by the Parties at the time of funding or purchase of such new equipment or assets.

26) RESOLUTION OF DISPUTES. Resolution of any controversy or dispute that may arise under this Agreement shall be resolved in a timely manner. Parties shall establish a committee consisting of representatives of Contractor, the County, and of a fire service provider mutually acceptable to Contractor and the County. The committee shall meet as the circumstances may deem necessary to resolve controversies and disputes. To the extent Contractor and the County cannot, after good faith attempts, resolve any controversy or dispute that may have arisen under this Agreement, either Party, to the extent its interests are adversely impacted, may refer the matter to mediation. In such case, the Parties shall select a mediator mutually acceptable to the Parties and shall share the costs of mediation equally. If mediation fails to resolve the dispute, either Party may pursue its legal remedies, including, but not limited to, filing a complaint in the appropriate court possessing competent jurisdiction after following all statutory requirements prior to such filing.

MISCELLANEOUS

27) LIABILITY AND INDEMNIFICATION. The Parties agree to be fully responsible for their own acts of negligence or their respective agents' acts of negligence when acting within the scope of their employment, and agree to be liable for any damages resulting from said negligence. Nothing herein is intended by the Parties to serve as a waiver of sovereign immunity or the limits of liability contained in Section 768.28, Florida Statutes. This section shall not be construed as waiving any defense or limitation which any of the Parties may have against any claim or cause of action by any person not a party to this Agreement. Nothing herein shall be construed as consent by the Parties to be sued by third parties in any manner arising out of this Agreement. This section shall survive expiration or earlier termination of this Agreement.

28) NON-DISCRIMINATION IN EMPLOYMENT. Contractor will not discriminate against any applicant for employment because of age, race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated fairly or equally during employment, without regard to age, race, color, religion, sex, or national origin. Such action shall include, but not be limited to, recruiting and related advertising, layoff or termination, upgrading, demotion, transfer, rates of pay and compensation, and selection for training, including apprenticeship. Contractor will post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

29) NOTICES. All notices, consents, and agreements required or permitted by this Agreement shall be in writing, and, as applicable, shall be transmitted by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt; postage prepaid, and shall be addressed as follows:

If to County: Director, Pinellas County Public Safety Services
12490 Ulmerton Road
Largo, Florida 33774

If to Contractor: City of St. Petersburg
175 Fifth St. N.
St. Petersburg, FL 33701
Attn: Mayor's Office

30) ENTIRE AND COMPLETE AGREEMENT. This Agreement, as amended, and all Appendices hereto, constitute the entire and complete agreement of the Parties with respect to the services to be provided hereunder.

This Agreement, unless provided herein to the contrary, may be modified only by written agreement duly executed by the Parties with the same formality as this Agreement.

31) OTHER DOCUMENTS. Each Party agrees to execute and deliver any instruments and to perform any acts that may be necessary or reasonably requested in order to give full effect to this Agreement.

32) APPLICABLE LAW. The law of the State shall govern the validity, interpretation, construction, and performance of this Agreement.

33) WAIVER. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the Party granting such waiver. If any representation, warranty, or covenant contained in this Agreement is breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived, and shall not be deemed to waive any other breach under this Agreement.

34) SEVERABILITY. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement, or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, supplemented, or otherwise affected by such action, remain in full force and effect.

35) CONTRACTOR IS INDEPENDENT CONTRACTOR. The Parties agree that throughout the term of this Agreement, and during the performance of any obligations hereunder, Contractor is an independent contractor in all respects and shall not be the agent, servant, officer, or employee of the Board or County.

36) NO THIRD-PARTY BENEFICIARIES; ASSIGNMENT. This Agreement is not intended, nor shall it be construed, to inure to the benefit of any third person or entity not a party hereto, and no right, duty, or obligation of Contractor under this Agreement shall be assigned to any person, private association or corporation, not-for-profit corporation, or public body without the prior written consent of the Board.

37) COUNTERPARTS. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

38) HEADINGS. Captions and headings in this Agreement are for ease of reference and do not constitute a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto, by and through their undersigned authorized officers, have caused this Agreement to be executed on this 6th day of September, 2012.

ATTEST:
Ken Burke, CLERK
by: [Signature]
Deputy Clerk
(seal)
APPROVED AS TO FORM

PINELLAS COUNTY,
by and through its governing body, the Pinellas County Board of County Commissioners

by: [Signature]
Chairman

[Signature]
Office of County Attorney

CONTRACTOR:

City of St. Petersburg, Florida

By: [Signature]
Name/Title Bill Foster, Mayor

Attest:

(For) [Signature] - acting Clerk
Eva Andujar, City Clerk
(seal)



Approved as to form and content:
[Signature]
City Attorney (designee)

APPENDIX A

FIRE DISTRICTS

<u>Fire District</u>	<u>Current Fire Service Contractor</u>
Belleair Bluffs Fire Control District	City of Largo
Clearwater Fire Control District	City of Clearwater
Dunedin Fire Control District	City of Dunedin
Gandy Fire Control District	City of St. Petersburg
Largo Fire Control District	City of Largo
(West) Highpoint Fire Control District	City of Largo
Pinellas Park Fire Control District	City of Pinellas Park
(East) Highpoint Fire Control District	City of Pinellas Park
Safety Harbor Fire Control District	City of Safety Harbor
Seminole Volunteer Fire Control District	City of Seminole
South Pasadena Fire Control District	City of St. Petersburg
Tarpon Springs Fire Control District	City of Tarpon Springs
Tierra Verde Fire Control District	Lealman Special Fire Control District

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