

**Signatures**

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

Corrections on this page, including strikeouts, whiteout, etc. are not permitted.

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

Signature: \_\_\_\_\_

Typed Name and Title: Petrina T. Herring, Bureau Chief

Date: \_\_\_\_\_

**Recipient  
Pinellas County Board of County Commissioners**

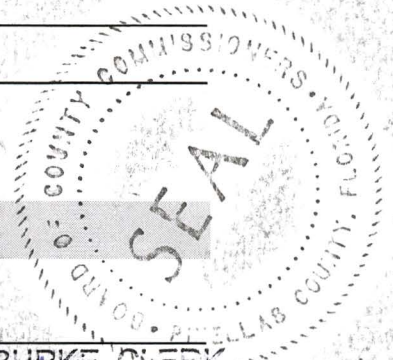
Signature: Kenneth T. Welch

Typed Name and Title: Kenneth T. Welch, Chair

Date: 12/11/18

ATTEST: KEN BURKE, CLERK

By: Debra J. Smithe  
Deputy Clerk



**Implementing Agency  
Pinellas County Forensic Laboratory**

Signature: Reta Newman

Typed Name and Title: Reta Newman, Director

Date: 11-16-18

**APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY**

By: [Signature]  
Attorney

**State of Florida  
Office of Criminal Justice Grants  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308**

**GRANT AWARD**

Recipient: Pinellas County Board of County Commissioners/ Pinellas County Forensic Laboratory

Grant Period: From: 10/1/2018 To: 9/30/2019

Project Title: Statewide Criminal Analysis Laboratory System

Grant Number: 2019-SFA-CL-52-8A-004

Catalog Number: 71.002

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This Agreement is entered into by and between the Department and Recipient shown above, and

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

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

WHEREAS, the Department has authority pursuant to Florida law and specifically pursuant to ss. 943.35-943.361, F.S., for providing funding for the Recipient's to provide crime laboratory services on a regular and ongoing basis to meet the forensic science service needs of criminal justice agencies.

This award is subject to the following special conditions:

S0001 The Pinellas County Forensic Laboratory shall provide to FDLE's Office of Criminal Justice Grants on or before October 15, 2018 the following documentation in accordance with ss. 943.36(1) and 943.36(2), F.S., on form FCLC-1 titled "Local Crime Laboratory Budget Request."

Information provided will be signed by the Lab Director and/or designee attesting to the accuracy of the information provided, and used by FDLE to assure funds are used in compliance with state grant program requirements:

- a) The actual operating costs of the immediate prior fiscal year;
- b) The operating budget approved by the county commission for the fiscal year in progress;
- c) Workload data, including, but not limited to, the volume of casework received and completed by type and sources of workload by law enforcement agency; and
- d) Prior year actual and current operating cost data to include an itemization of the eligible expenditures required for the Pinellas County Sheriff's Office Crime

Laboratory. The expenditure report shall indicate the portion of operating expenses funded by local or federal funds and specify the amount of the local appropriation to be used as the basis for computing the state's maximum 75 percent funding contribution.

**Definitions:**

Operating Budget: The actual operating cost of the immediate prior fiscal year and the approved operating budget for the current fiscal year. Operating budgets will indicate the portion of the operating expenses funded by local or federal sources and will specify the amount of the local appropriation to be used as the basis for computing the state's maximum 75 percent funding contribution.

Workload Data: Including, but not limited to, the volume of casework received and completed by type and sources of workload by law enforcement agency for the contract period.

Expenditure Tracking: The actual expenditures procured with funding provided by the disbursement of fines through this agreement during the immediate prior contract period. Expenditures must be categorized by laboratory discipline and be easily identifiable should a request for invoices and proof of payment be deemed necessary.

**Section II: Project Overview**

**Project Title:** Statewide Criminal Analysis Laboratory System  
**Recipient Organization:** Pinellas County Board of County Commissioners/Pinellas County Forensic Laboratory  
**Project Start Date:** October 1, 2018  
**End Date:** September 30, 2019

**Purpose and Scope:**

Section 943.32, F.S., establishes a statewide criminal analysis laboratory system composed of the FDLE laboratories and five locally-funded laboratories in Broward, Indian River, Miami-Dade, Palm Beach and Pinellas Counties, specifically designated in s. 943.35 F.S., to be eligible for state matching funds.

Criminal fines are collected statewide by Clerks of Court and forwarded to FDLE via the Department of Revenue pursuant to ss. 938.07 and 938.055, F.S. These include mandatory fines imposed for driving or boating under the influence and discretionary fines the courts may impose when a locally-funded crime laboratory provides services that are used in the prosecution of any violation included in Title XLVI, CRIMES, chapters 775-896 of Florida Statutes (943.361, F.S.).

Funds received by FDLE as a result of these criminal fines are passed-through to statutorily designated crime laboratories quarterly on a formula distribution basis, and utilized by each lab in accordance with s. 943.361, F.S., as matching funds for services provided in eligible disciplines up to 75 percent of each lab's operating costs for those disciplines.

The Recipient shall perform all tasks, activities, and provide budget, expenditure and workload reports as prescribed in s. 943.36, F.S., on the FCLC-1 form template provided in conjunction with this agreement.

The State of Florida's performance and obligation to pay under this agreement is contingent upon an appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Florida Statutes or the Florida Constitution.

Expenditures of state financial assistance shall be compliant with laws, rules and regulations specified in s. 943.361, F.S. The Department's determination of acceptable expenditures shall be conclusive.

**Crime Laboratory Responsibilities:**

The Recipient will provide crime laboratory services on a regular and ongoing basis during the 2018-2019 contract period to meet the forensic science service needs of criminal justice agencies within the state in accordance with s. 943.32, F.S.

The Recipient will maintain adequate staffing levels and provide forensic services in eligible disciplines based on the specific needs of the law enforcement community it serves, as directed by the Recipient's governing board, county commission, or public unit of governance, and in accordance with established policies and procedures. The Recipient shall provide a copy of the current year annual budget for the lab within 30 days of execution of the agreement.

As a partially state-funded laboratory, the Recipient may be called upon by any Florida law enforcement official to provide crime laboratory services, even if the agency is outside the Recipient's regular geographic jurisdiction. The Recipient will provide assistance when possible, based on availability of services, current staffing and workload levels, and the Recipient's internal acceptance guidelines.

The Recipient will be reimbursed not to exceed 75 percent of the actual operating costs including, but not limited to, salaries, benefits, expenses, and operating capital outlay. Operating costs for equipment, health, safety, and training of member crime laboratories in the forensic discipline services listed below are eligible for funding through this agreement:

- Biology/DNA
- Chemistry
- Crime Scene
- Digital evidence
- Firearms
- Latent prints
- Toxicology
- Trace evidence

Recipient may not utilize funds received as part of this agreement for the following:

- Identification photography
- Identification of fingerprints, other than latent
- Polygraph
- Electronic surveillance
- Medical examiners

**Deliverables:**

The scope and responsibilities above identify the project deliverables. Crime laboratories will provide forensic services for Florida criminal justice agencies as requested by criminal justice agencies, and in accordance with each lab's operating procedures based on the needs of their jurisdictions and requesting agencies.

For payment purposes, each crime lab will receive a quarterly payment initiated by the Department and based on the percentage identified in Section: Payments and Financial Reports of this contract, pursuant to ss. 938.055 and 938.07, F.S.

Recipients shall assure files are being maintained to substantiate forensic services provided and expenditures paid from this agreement. Supporting documentation for the deliverables and use of funds for each crime laboratory will be submitted to FDLE on FCLC-1 (Attachment A) in accordance with specifications and deadlines prescribed in s. 943.36, F.S., unless written approval has been given by FDLE for a deadline extension not to exceed December 31, 2018. Any state funds received from this agreement that are determined to be in excess of 75 percent of the crime lab's operating costs, or utilized for ineligible disciplines or expenditures, must be returned to the state.

**Other Requirements:**

In the event the Recipient ceases providing crime laboratory services during this contract period, a final report shall be submitted to the Department to include the actual operating costs from the beginning of

this contract through the date the Recipient ceased laboratory operations. The actual costs will be compared to the distributions to date, and any state funds in excess of 75 percent of the actual operating costs must be refunded to the Department by November 30, 2019.

If the Recipient fails to provide criminal laboratory services as directed by the Recipient's governing unit and as outlined in this Agreement, additional distributions of cash will be withheld and future funding under this program may be jeopardized.

### **Payments and Financial Reports**

Funds will be disbursed to the Recipient based upon each crime lab's proportional distribution determined by population served using 2017 population estimates published by the Florida Legislature, Office of Economic and Demographic Research. The distribution information for each crime lab is provided in the table below. Payments will be issued as quarterly disbursements to each crime lab after the end of each quarter in which FDLE receives the funds from the Department of Revenue. Awards under this program are subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law.

By execution of this agreement and the submission of completed FLC-1 reports, the Recipient shall receive quarterly payments as outlined in this agreement. The Recipient and Department agree that the reimbursement and reconciliation process outlined in s. 943.36, F.S. will be followed.

The Recipient may only retain funds up to an amount equal to 75 percent of the crime laboratory's total actual operating cost, excluding federally-funded expenditures, for the fiscal year. After the close of the current fiscal year (September 30, 2019), the amount distributed under this agreement will be compared to the actual crime laboratory expenditures as disclosed in the subsequent annual report (FLC-1). Any state funds received in excess of the 75 percent threshold, as well as any balance of unobligated funds, must be refunded to the Department by November 30, 2019, or no later than 30 days of notification by the Department.

The funds received during the Recipient's fiscal year must be applied to the current operating budget, and expenditures incurred outside the agreement period (October 1, 2018 – September 30, 2019) are not eligible to be paid with these funds.

Each crime laboratory shall establish procedures to accept payments during the contract period and maintain supporting documentation including purchase orders, receipts, invoices, and proof of payment for all expenditures made with state matching funds.

No request for payment shall be made, nor shall any such request be honored, for any activity not covered by this agreement; and no monies distributed to the crime lab will be used to fund any operations unrelated to this agreement.

For this contract period, the Recipient will receive 12.13% of the collected funds.

<b>Crime Laboratory</b>	<b>Population Served</b>	<b>Percentage of Total Distribution</b>
Broward County Sheriff's Crime Laboratory	1,873,970	23.619575%
Indian River Crime Laboratory *	940,758	11.857343%
Miami-Dade Police Department Crime Laboratory	2,743,095	34.574053%
Palm Beach County Crime Laboratory	1,414,144	17.823914%
Pinellas County Forensic Laboratory	962,003	12.125115%
<b>Total</b>	<b>7,933,970</b>	<b>100%</b>

\* Indian River Crime Laboratory service area includes the 19<sup>th</sup> Judicial Circuit: Indian River, St. Lucie, Martin, and Okeechobee counties

## Appendix A: Administration

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

### Chief Official

**Name** Kenneth T. Welch  
**Title** Chair, Board of County Commissioners  
**Address** 315 Court Street  
Clearwater, FL 33756  
**Phone** 727-464-3365  
**Email** grantscoe@pinellascounty.org

### Contract/Grant Manager

**Name** Sara Gordils  
**Title** Planning Section Manager  
**Address** 440 Court Street, Second Floor  
Clearwater, FL 33756  
**Phone** 727-453-7437  
**Email** sgordils@pinellascounty.org

### Official Payee

**Name** Pinellas County  
10900 Ulmerton Road  
**Address** Largo, FL 33778  
**Phone** 727-582-6810  
**Email**  
**SAMAS #**  
**FEID #** 596000800

### Programmatic Contact

**Name** Reta Newman  
**Title** Director, Forensic Lab  
**Address** 10900 Ulmerton Road  
Largo, FL 33778  
**Phone** 727-582-6810  
**Email** rtnewman@co.pinellas.fl.us

### Chief Financial Officer

**Name** Ken Burke  
**Title** Clerk of Court and Comptroller  
**Address** 315 Court Street  
Clearwater, FL 33756  
**Phone** 727-464-7000  
**Email** kburke@mypinellasclerk.org

## Appendix C: Standard Conditions

The following terms and conditions will be binding upon approval of the grant award and completion of the Certificate of Acceptance by the Recipient. The Recipient will maintain required registrations and certifications for eligibility under this program.

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

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

### I. PAYMENTS

#### Overpayments

Any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the agreement must be refunded to the Department.

Any balance of unobligated cash that have been advanced or paid that is not authorized to be retained for direct program costs in a subsequent period must be refunded to the state.

### II. PROJECT AND GRANT MANAGEMENT

#### Personnel Changes

In the event there is a change in Chief Officials or Project Director for the Recipient or any contact information to include mailing address, phone number, email or title change, the Recipient must notify the FDLE grant manager.

#### Obligation of Grant Funds

Grant funds shall not under any circumstances be obligated prior to the effective date, or subsequent to the termination date, of the period of performance. Only project costs incurred on or after the effective date, and on or prior to the termination date of the Recipient's project are eligible for reimbursement. All payments must be completed within thirty (30) days of the end of the grant period of performance.

#### Financial Management

The Recipient must have a financial management system in place that is able to record and report on the receipt, obligation, and expenditure of grant funds. An adequate accounting system must be able to

separately track receipts, expenditures, assets, and liabilities for awards, programs, and subrecipients. The Recipient shall maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices.

Recipient must have written procedures for procurement transactions.

#### Travel

Cost for travel shall be reimbursed at the Recipient's travel rate, but the total per travel voucher shall not exceed rates established in State of Florida Travel Guidelines, s. 112.061, F.S.

#### Subcontracts

Recipient agrees that all employees, subcontractors, or agents performing work under the Agreement shall be properly trained individuals who meet or exceed any specified training qualifications.

Recipient agrees to be responsible for all work performance and all expenses incurred in fulfilling the obligations of this Agreement, and will not assign the responsibility for this Agreement to another party. If the Recipient subcontracts any or all of the work required under this agreement, a copy of the executed subcontract must be forwarded to the Department within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this agreement, to the extent allowed and required by law.

#### Grant Adjustments

Recipients must submit a grant adjustment to the FDLE grant manager for major substantive changes such as: scope modifications or changes to project activities, target populations, service providers, implementation schedules, project director, designs or research plans set forth in the approved agreement, and for any budget changes that affect a cost category that was not included in the original budget.

Recipients may transfer up to 10% of the total budget between current, approved budget categories without prior approval, as long as the funds are transferred to an existing line item. Adjustments are required when there will be a transfer of 10% or more of the total budget between budget categories.

Under no circumstances can transfers of funds increase the total award.

Requests for changes to the grant agreement must be signed by the Recipient or implementing agency's chief official or the chief official's designee.

All requests for changes must be submitted no later than thirty (30) days prior to grant expiration date.

### **III. MANDATORY DISCLOSURES**

#### **Conflict of Interest**

The Recipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

Recipients must disclose in writing any potential conflict of interest to the Department.

#### **Violations of Criminal Law**

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

#### **Convicted Vendors**

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

#### **Vendors on Scrutinized Companies Lists**

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

#### **Discriminatory Vendors**

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

agreement with any public entity; or e) transact business with any public entity.

#### **Reporting Potential Fraud, Waste, Abuse, and Similar Misconduct**

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

#### **Restrictions and certifications regarding non-disclosure agreements and related matters**

Recipients or contracts/subcontracts under this award may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits, restricts or purports to prohibit or restrict, the reporting of waste, fraud or abuse in accordance with law, to an investigative or law enforcement representative of a state or federal department or agency authorized to receive such information.

The Recipient certifies that if is informed or notified of any subrecipient, or contractor/subcontractor has been requiring their employees to execute agreements or statements that prohibit the reporting of fraud, waste, or abuse that it will immediately cease all further obligations of award funds to the entity and will immediately notify the Department. The Recipient will not resume obligations until expressly authorized to do so from the Department.

### **IV. COMPLIANCE WITH STATUTES, RULES, AND REGULATIONS**

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

#### **Civil Rights**

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



benefits to clients or employees in connection with its programs and activities.

#### **Lobbying Prohibited**

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

#### **Public Records**

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

#### **Timely Payment of Subcontractors**

To the extent that a subcontract provides for payment after Recipient's receipt of payment from the Department, the Recipient shall make payments to any subcontractor within 7 working days after receipt of full or partial payments from the Department in accordance with s. 287.0585, F.S., unless otherwise stated in the Agreement between the Recipient and subcontractor. Failure to pay within seven (7) working days will result in a penalty that shall be charged against the Recipient and paid by the Recipient to the subcontractor in the amount of one-half of one percent (.005) of the amount due per day from the expiration of the period allowed for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15%) percent of the outstanding balance due.

#### **Legal Authorization**

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

#### **Independent Contractor, Subcontracting and Assignments**

In performing its obligations under this Agreement, the Recipient shall at all times be acting in the

capacity of an independent contractor and not as an officer, employee, or agent of the State of Florida. Neither the Recipient nor any of its agents, employees, subcontractors or assignees shall represent to others that it is an agent of or has the authority to bind the Department by virtue of this Agreement, unless specifically authorized in writing to do so.

#### **Notice of Legal Actions**

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

#### **Property**

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

#### **Background Check**

Whenever a background screening for employment or a background security check is required by law for employment, unless otherwise provided by law, the provisions of Chapter 435 F.S., shall apply.

All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of the subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile record checks through the Florida Department of Law Enforcement, and federal criminal record checks through the Federal Bureau of Investigation, and may include local criminal record checks through local law enforcement agencies.

### **V. RECORDS, AUDITS AND DATASECURITY**

#### **Records, Retention**

Retention of all financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement shall be maintained by the Recipient during the term of this Agreement and retained for a period of five (5) years after completion of the Agreement or longer when required by law. In

the event an audit is required under this Agreement, records shall be retained for a minimum period of five (5) years after the audit report is issued or until resolution of any audit findings or litigation based on the terms of this Agreement, at no additional cost to the Department.

Upon demand, at no additional cost to the Department, the Recipient will facilitate the duplication and transfer of any records or documents during the term of this Agreement and the required five (5) year retention period. No record may be withheld, nor may the Recipient attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record.

These records shall be made available at all reasonable times for inspection, review, copying, or audit by State, or other personnel duly authorized by the Department.

#### **Audits**

The Recipient shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (s. 20.055, F.S.).

In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with s. 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Law Enforcement, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

The schedule of expenditures should disclose the expenditures by contract/agreement number for each contract with the Department in effect during the audit period. All questioned costs and liabilities due the Department shall be fully disclosed in the audit report package with reference to the specific contract number.

If the Recipient expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of s. 215.97, F.S., is not required. In the event that the

Recipient expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of s. 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

Pursuant to s. 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with s. 215.97, F.S.. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.

Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted within nine (9) months after the end of the Recipient's fiscal year or within 30 days of the recipient's receipt of the audit report, whichever occurs first, unless otherwise required by Florida Statutes:

Copies of financial reporting packages required by of this Agreement shall be submitted by or on behalf of the Recipient directly to each of the following:

The Department of Law Enforcement at:

ATTN: Petrina T. Herring  
Florida Department of Law Enforcement  
Office of Criminal Justice Grants  
Post Office Box 1489  
Tallahassee, Florida 32302-1489

The Auditor General's Office at:

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

#### **Monitoring**

The Recipient agrees to comply with the Department's grant monitoring guidelines, protocols, and procedures; and to cooperate with the Department on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, site visits, and/or Florida Department of Financial Services contract reviews and Expanded Audits of Payment (EAP).

The Recipient agrees to provide the Department all documentation necessary to complete monitoring of the award and verify expenditures in accordance with s. 215.971, F.S. Further, the Recipient agrees to abide by reasonable deadlines set by the Department for providing requested documents. Failure to cooperate with grant monitoring activities may result in sanctions affecting the Recipient's award, including, but not limited to: withholding and/or other restrictions

on the recipient's access to funds, and/or referral to the Office of the Inspector General for audit review.

#### **Property Management**

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

#### **Recipient's Confidential and Exempt Information**

By executing this Agreement, the Recipient acknowledges that, having been provided an opportunity to review all provisions hereof, all provisions of this Agreement not specifically identified in writing by the Recipient prior to execution hereof as "confidential" or "exempt" will be posted by the Department on the public website maintained by the Department of Financial Services pursuant to s. 215.985, F.S. The Recipient agrees that, upon written request of the Department, it shall promptly provide to the Department a written statement of the basis for the exemption applicable to each provision identified by the Recipient as "confidential" or "exempt", including the statutory citation to an exemption created or afforded by statute, and state with particularity the reasons for the conclusion that the provision is exempt or confidential.

Any claim by Recipient of trade secret (proprietary) confidentiality for any information contained in Recipient's documents (reports, deliverables or work papers, etc., in paper or electronic form) submitted to the Department in connection with this Agreement cannot be waived, unless the claimed confidential information is submitted in accordance with the following two paragraphs.

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

The Department, when required to comply with a public records request including documents submitted by the Recipient, may require the Recipient to expeditiously submit redacted copies of documents marked as trade secret in accordance with this section. Accompanying the submission shall be an updated version of the justification, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that

are claimed to be trade secret. If the Recipient fails to promptly submit a redacted copy, the Department is authorized to produce the records sought without any redaction of proprietary or trade secret information.

## **VI. PENALTIES, TERMINATION, DISPUTE RESOLUTION, LIABILITY AND COMMUNICATION**

#### **Financial Penalties for Failure to Take Corrective Action**

Corrective action plans may be required for noncompliance, nonperformance, or unacceptable performance under this Agreement. Penalties may be imposed for failures to implement or to make acceptable progress on such corrective action plans.

#### **Termination**

The Department reserves the right to unilaterally cancel this agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Recipient in conjunction with this agreement, unless the records are exempt pursuant to Article I, Section 24(a), of the Florida Constitution and s. 119.07(1), F.S.

The Department shall be the final authority as to the appropriation, availability and adequacy of funds. In the event the Recipient fails to fully comply with the terms and conditions of this Agreement, the Department may terminate the Agreement upon written notice. Such notice may be issued without providing an opportunity for cure if it specifies the nature of the noncompliance and states that provision for cure would adversely affect the interests of the State or is not permitted by law or regulation. Otherwise, notice of termination will be issued after the Recipient's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Department specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Department may employ the default provisions in Rule 60A-1.006(3), F.A.C., but is not required to do so in order to terminate the Agreement. The Department's failure to demand performance of any provision of this Agreement shall not be deemed a waiver of such performance. The Department's waiver of any one breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this Agreement. The provisions herein do not limit the Department's right to remedies at law or in equity. The validity of this agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this agreement, and such information,

representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this agreement and the release of the Department from all its obligations to the Recipient. This agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this agreement.

No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this agreement shall survive the terms and life of this agreement as a whole.

The agreement may be executed in any number of counterparts, any one of which may be taken as an original.

In the event of termination, the Recipient will be compensated for any work satisfactorily completed through the date of termination or an earlier date of suspension of work.

#### **Disputes and Appeals**

The Department shall make its decision in writing when responding to any disputes, disagreements, or questions of fact arising under this agreement and

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

#### **Liability**

Unless the Recipient is a state agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this Agreement. For purposes of this Agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor.

Nothing herein shall be construed as consent by a state agency of the State of Florida to be sued by third parties in any matter arising out of any contract.

Nothing in this Agreement shall be construed to affect in any way the Recipient rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in s. 768.28, F.S.