

MASTER CONTRACTOR/SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is by and between the City of Delray Beach, a Florida municipal corporation (hereinafter referred to as "City") whose address is 100 NW 1st Avenue, Delray Beach, FL 33444 and Ten-8 Fire & Safety, LLC, a corporation authorized to do business in the State of Florida (hereinafter referred to as "Contractor"), whose mailing address is 2950 59th Avenue Drive East this 14th day of November, 2023.

WHEREAS, the City desires to procure goods for the City of Delray Beach Public Works Fleet; and

WHEREAS, the City desires to procure said goods from Contractor utilizing existing contract prices provided to Sourcewell, pursuant to its Request for Proposals (RFP) 113021; and

WHEREAS, in accordance with Contract No. 113021-OKC, Sourcewell entered into a four (4) year agreement with Contractor for Firefighting Apparatus and Fire Service Vehicles on April 5, 2022 through February 10, 2026, with one 1-year option to renew; and

WHEREAS, the Contractor agrees to extend the terms, conditions, and pricing of the Contract to the City, under Contract No. 113021, subject to the terms and conditions of this Agreement, the City's Purchasing ordinance, and Florida law; and

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Contractor shall provide Firefighting Apparatus and Fire Service Vehicles for the City, in accordance with and pursuant to the same terms, conditions, and pricing of 113021-OKC procured by Sourcewell in accordance with the Contractor's Price Proposal Summary attached hereto as Exhibit "A".
3. This Agreement shall terminate on February 10, 2026, unless Contract No. 113021-OKC is properly renewed by Sourcewell. If Contract No. 113021-OKC is properly renewed, this Agreement shall automatically renew for one additional year.
4. The City, at its sole discretion reserves the right to terminate this Agreement with or without cause immediately upon providing written notice to Contractor. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Agreement. The City shall be liable only for the reasonable costs incurred by Contractor prior to the date of the notice of termination. The City shall be the sole judge of "reasonable costs."
5. Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing

in the manner provided in this section. For the present, the Parties designate the following:

For CITY:

City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

FOR CONTRACTOR:

Ten-8 Fire & Safety, LLC
2904 59th Avenue Drive East
Bradenton Fl., 34203
Email: JCalcutt@ten8fire.com
Attn: Jeff Calcutt
Phone: 941-756-7779

6. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party.

7. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this contract or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs.

8. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

a. Contractor shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in

Florida Statute or as otherwise provided by law.

- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

9. Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and may demand and obtain records and testimony from Contractor and its subcontractors and lower tier subcontractors. Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

10. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

11. By entering into this Agreement, Contractor acknowledges its obligation to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Contractor affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Contractor, the Contractor may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the

responsibility of the Contractor.

12. The Contractor shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officer, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the agreement by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

13. The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- a. Terms and conditions as contained in this Agreement
- b. Terms and conditions of Contract No. 113021-OKC
- c. Contractor's response to Solicitation No. RFP 113021 Firefighting Apparatus and Fire Service Vehicles and any subsequent information submitted by Contractor during the evaluation and negotiation process.

[Remainder of this Page is Intentionally Blank]

IN WITNESS WHEREOF, the City and Contractor executed this contract as of the day and year first above written.



CITY OF DELRAY BEACH

By: _____

Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson

Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

Lynn Gelin

Lynn Gelin, City Attorney

TEN-8 FIRE & SAFETY, LLC

By: _____

Print Name: B. Keith Chapman

Title: President / CEO

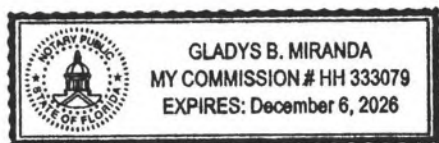
(SEAL)

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this TH day of NOVEMBER, 2023 by B. KEITH CHAPMAN (name of person), as PRESIDENT/CEO (type of authority) for TEN-8 FIRE & SAFETY (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification

Type of Identification Produced _____



Gladys B. Miranda
Notary Public – State of FLORIDA

CITY ATTORNEY OFFICE - LEGAL REVIEW CHECKLIST

Name of Agreement: Agreement with Ten-8

Department: Purchasing/FR

Contact person: Joel B.

City Manager approval ☐

City Commission approval ☒

Reviewed by Purchasing ☐

Agenda item #:

Agenda meeting date:

Resolution #:

Agreement Action:

New ☒

Renewal ☐

Amendment ☐

*Renewal: Only change is the agreement term
*Amendment: For changes other than/in
addition to term

Does the Contractor require the City to sign first?: No

For City Attorney Use only:

Agreement Terms:

Comments/Specific Provision in Agreement

Term (Duration of Agreement)	p.3 through 2-10-26
Termination Clause	p.4
Renewal Clause	p.3 1 yr
Insurance	City standard
Indemnification	City standard
Assignment	p.6
Fiscal Funding Requirement	p.10
FL. Public Records Provision (2016)	p.8
Inspector General Provision	p.9
Governing Law	Florida
Venue	Palm Beach County
Attorney's fees	
E-verify	p.11

Business Principles:

Comments

Fees: Total Value	\$2,765,420.58
Fees: Per Fiscal Year	

Other Issues:

Comments

Non-Negotiable Issues/ Miscellaneous Issues/ Special Considerations	purchase of pumper truck and ladder truck for FD
---	--

Consistent with applicable policies including, but not limited to, Procurement policies. Yes ☐

Attorney: Daniela Vega, Esq.

Reviewed and approved as to form and legal sufficiency only

Form version 5, March, 2018

RESOLUTION NO. 231-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH TEN-8 FIRE & SAFETY LLC., FOR THE PURCHASE OF ONE NEW PIERCE ENFORCER PUMPER TRUCK AND ONE NEW PIERCE ENFORCER LADDER TRUCK, UTILIZING SOURCEWELL RFP 113021; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AMENDMENTS AND/OR RENEWALS THERETO AND TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE THIS AGREEMENT; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach (City) is authorized to enter into agreements to provide services, programming and products in accordance with its Charter; and

WHEREAS, Sourcewell administers a Cooperative Purchasing Program wherein it performs the solicitation for a multitude of products and administers the resulting contracts; and

WHEREAS, contracts solicited by Sourcewell are accessible to federal, state/province, and municipal government entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada; and

WHEREAS, Sourcewell issued RFP No. 113021 to obtain vendors for firefighting apparatus and fire service vehicles; and

WHEREAS, Ten-8 Fire Safety and Equipment, Inc., is one of the authorized dealers awarded the contract under Sourcewell Contract No. 113021-OKC; and

WHEREAS, the City desires to obtain these products and services by utilizing the terms and conditions of an existing agreement with Ten-8 Fire Safety and Equipment, Inc., pursuant to Sourcewell Contract No. 113021-OKC for the purchase of one (1) new Pierce Enforcer Pumper Truck and one (1) new Pierce Enforcer Ladder Truck; and

WHEREAS, the City Commission deems approval of this Resolution to be in the best interests of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby affirmed and ratified.

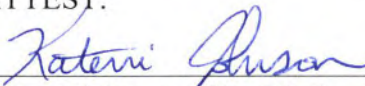
Section 2. The City Commission of the City of Delray Beach has reviewed and hereby approves this Agreement between the City and Contractor, which is attached to this Resolution as "Exhibit A".

Section 3. The City Commission authorizes the City Manager to execute any amendments and/or renewals and take any and all actions necessary to effectuate this Agreement.


Section 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the 14th day of November, 2023.


ATTEST:


Katerri Johnson, City Clerk




Shelly Petrolia, Mayor

Approved as to Form and Legal Sufficiency:


Lynn Gelin, City Attorney