



AMENDMENT NO.: 4
Contract Renewal
Contract No.: 42172101-18-NASPO-ACS
Contract Name: Automated External Defibrillator (AED) Units and Accessories

This Amendment (Amendment), effective October 5, 2020, to the Automated External Defibrillator (AED) Units and Accessories Contract No. 42172101-18-NASPO-ACS (Contract), between the State of Florida, Department of Management Services and ZOLL Medical Corporation (Contractor) are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Contract unless otherwise defined herein.

WHEREAS the Department entered into the above-referenced Contract with ZOLL Medical Corporation for the provision of AED Units and Accessories; and

WHEREAS the State of Oklahoma Contract Number OK-SW-300 (Master Agreement) was amended to extend the term of the Master Agreement through October 4, 2021; and

WHEREAS the Parties agreed that the Contract may be amended by mutual agreement as provided in section 4, Modifications or Additions to Master Agreement, of the Contract; and

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

- I. **Term.** Section 1, Term and Effective Date, of the Participating Addendum is replaced in its entirety with the following:

The initial term of this Participating Addendum is April 4, 2018, and will expire on October 4, 2021, unless terminated earlier by the Department or the Participating State.

- II. **Amendment.** The Contract is amended to add Exhibit D: Additional Special Contract Conditions (Florida). The Additional Special Contract Conditions shall apply to this Contract beginning October 5, 2020.

- III. **Modifications or Additions to Master Agreement.** Section 4, Modifications or Additions to Master Agreement, of the Participating Addendum is replaced in its entirety with the following:

All modifications to this Contract must be in writing and signed by all Parties. If amendments are made to the Master Agreement, the Contractor shall: 1) notify the Department of such amendments; and 2) provided the Department is amenable to incorporating the amendments into this Contract, enter into a written amendment with the Department reflecting the addition of such amendments to this Contract.



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All exhibits attached or listed below are incorporated in their entirety into, and shall form part of, this Contract. Exhibits A and D modify or supplement the terms and conditions of the Master Agreement. The Parties agree that these modifications or additions shall apply to actions between the Contractor and the State of Florida. In the event of a conflict, the following order of precedence shall apply:

- a) This Contract and amendments, with the latest issued having priority.
- b) Exhibit D: Additional Special Contract Conditions (Florida)
- c) Exhibit A: Special Contract Conditions (Florida)
- d) Exhibit C: Price List Zoll Medical Corporation
- e) Exhibit B: Master Agreement

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Agreement, such citation or reference shall be replaced by the comparable Florida law or regulation.

- IV. Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.
- V. Warranty of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.
- VI. Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

State of Florida:
Department of Management Services

DocuSigned by:
 By: Tami Fillyaw
991459A211104A3...

Name: Tami Fillyaw
Title: Chief of Staff

Date: 9/28/2020 | 11:47 AM EDT

Contractor:
ZOLL Medical Corporation

DocuSigned by:
 By: Kurt Sandstrom
38CC0FA442B3492...

Name: Kurt Sandstrom
Title: Group Vice President, North American EMS Sales

Date: 9/25/2020 | 3:28 PM EDT



ADDITIONAL SPECIAL CONTRACT CONDITIONS

Exhibit D

The Contractor and Customers acknowledge and agree to be bound by the terms and conditions of the Master Agreement except as otherwise specified in the Department's Contract as modified and supplemented by the Special Contract Conditions and these Additional Special Contract Conditions.

Contractor acknowledges that the Participating State is an agency of the State of Florida and as such, the Contract will include the terms and conditions in these Additional Special Contract Conditions. All references to the Contract in these Additional Special Contract Conditions include the terms and conditions herein.

- A. Orders: Contractor must be able to accept the State of Florida Purchasing Card and MyFloridaMarketPlace (MFMP) purchase orders.
- B. Contractor and Applicable Subcontractors, Affiliates, Partners, Resellers, Distributors, and Dealers: By execution of a Contract, the Contractor acknowledges that it will not be released of its contractual obligations to the Department because of any failure of a subcontractor, reseller, distributor, or dealer. The Contract terms are applicable to subcontractors, resellers, distributors, and dealers and shall apply to the Contractor's Applicable Subcontractors, Affiliates, Partners, Resellers, Distributors, and Dealers providing commodities and performing services in furtherance of the Contract. The Contractor is fully responsible for satisfactory completion of all work performed under the Contract.
- C. Purchases Prerequisites: Before fulfilling any Customer purchases and receiving payment, the Contractor and applicable Subcontractors, Affiliates, Partners, Resellers, Distributors, and Dealers must have met the following requirements, unless further notated below:
 - Have an active registration with the Florida Department of State, Division of Corporations (www.sunbiz.org), or, if exempt from the registration requirements, provide the Department with the basis for such exemption.
 - Be registered in the MFMP Vendor Information Portal (<https://vendor.myfloridamarketplace.com>) *only required by applicable Subcontractors, Affiliates, Partners, Resellers, Distributors, and Dealers if receiving payment.
 - Not be on the State's Convicted, Suspended, or Discriminatory Vendor lists (http://www.dms.myflorida.com/business_operations/State_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists)
 - Have a copy of e-Verify Status on file

- Have a current W-9 filed with the Florida Department of Financial Services (<https://flvendor.myfloridacfo.com>) *only required by applicable Subcontractors, Affiliates, Partners, Resellers, Distributors, and Dealers if receiving payment.

D. MFMP Electronic Invoicing: The Contractor may supply electronic invoices in lieu of paper-based invoices for those transactions processed through MFMP. Electronic invoices may be submitted to the agency through one of the mechanisms as listed below:

1) EDI (Electronic Data Interchange)

This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the Ariba Network (AN) for catalog and non-catalog goods and services.

2) PO Flip via AN

This online process allows Contractors to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

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

The Contractor will work with the MFMP management team to obtain specific requirements for the electronic invoicing if needed.

E. Contract Reporting: The Contractor shall provide the following reports associated with this Contract.

- 1) Contract Quarterly Sales Reports. The Contractor shall submit Quarterly Sales Reports to the Department's Contract Manager within 30 calendar days after the close of each State fiscal quarter (the State's fiscal quarters close on September 30, December 31, March 31, and June 30). The Contractor's first Quarterly Sales Report will be due 30 calendar days after the first full quarter following Contract execution.

Reports must be submitted in MS Excel format and can be retrieved by accessing the following link at [FL DMS Quarterly Sales Report Form](#). The report shall include all Customer sales received and associated with this Contract during the quarter. Initiation and submission of the Quarterly Sales Report is the responsibility of the Contractor without prompting or notification from the Department's Contract Manager. If no orders are received during the period, the Contractor must submit a report stating that there was no activity. If the Contractor fails to submit two consecutive quarterly sales reports, the Contract may be terminated, or the Department may choose to not renew the Contract.

- 2) Certified and Minority Business Enterprises Reports. Upon Customer request, the Contractor shall report to each Customer, spend with certified and other minority business enterprises in the provision of commodities or services related to the Customer orders. These reports shall include the period covered; the name, minority code, and Federal Employer Identification Number of each minority business enterprise utilized during the period; commodities and services provided by the minority business enterprise; and the amount paid to each minority business enterprise on behalf of the Customer.
 - 3) Ad Hoc Sales Reports. The Department may require additional Contract sales information such as copies of purchase orders or ad hoc sales reports. The Contractor shall submit these documents and reports within the timeframe specified by the Department.
 - 4) MFMP Transaction Fee Reports. The Contractor shall submit monthly MFMP Transaction Fee Reports to the Department. Reports are due 15 calendar days after the end of each month. Information on how to submit MFMP Transaction Fee Reports online can be located on the [Transaction Fee and Reporting website](#). Assistance with the transaction fee reporting system is also available from the MFMP Customer Service Desk by email at feeprocessing@myfloridamarketplace.com or telephone at 866-FLA-EPRO (866-352-3776) from 8:00 a.m. to 6:00 p.m. Eastern Time.
- F. Financial Consequences: The following financial consequences will apply for the Contractor's non-performance of the provision of the Quarterly Sales Reports and the MFMP Transaction Fee Reports. The State of Florida reserves the right to terminate the Contract or not renew when the Contractor has failed to comply with these provisions of the Contract. The Contractor and the Department agree that the financial consequences for non-performance are an estimate of damages which are difficult to ascertain and are not

penalties. The financial consequences will be paid via check or money order and made out to the Department of Management Services in U.S. dollars within 30 calendar days after the required report submission date. For each performance metric and performance due date that the Contractor fails to provide reports by the performance due date set forth in the Financial Consequences Chart in this section, the Contractor shall pay as financial consequences: (i) no financial consequences for the first failure, or any non-consecutive failure, in any twelve (12)-month period (ii) \$500 for the second consecutive failure in any 12-month period, (iii) \$1,000 for the third consecutive failure in any 12-month period, and (iv) \$1,500 for the fourth consecutive failure and each successive failure in any 12-month period thereafter. These consequences are individually assessed for failures over each target period beginning with the first full month or quarter of the contract performance and every month or quarter, respectively, thereafter.

Financial Consequences Chart

Deliverable	Performance Metric	Performance Due Date
Contractor will timely submit complete Quarterly Sales Reports	All Quarterly Sales Reports will be submitted timely with the required information	Reports are due on or before the 30 th calendar day after the close of each State fiscal quarter

Quarterly reporting timeframes coincide with the State Fiscal Year as follows:

- Quarter 1 - (July-September) – due 30 calendar days after close of the period
- Quarter 2 - (October-December) – due 30 calendar days after close of the period
- Quarter 3 - (January-March) – due 30 calendar days after close of the period
- Quarter 4 - (April-June) – due 30 calendar days after close of the period.

The Department may not consider renewal of a Contract or price adjustments if the Contractor is late on submitting required reports or for outstanding fees owed.

- G. Business Review Meetings: Both the Department and Customer reserve the right to schedule business review meetings. The Department or Customer will provide the format for the Contractor's agenda. In the event the Department or Customer schedules a business review meeting, the Contractor shall submit the completed agenda to the Department or Customer for review and acceptance prior to the meeting. The Contractor shall address the agenda items and any of the Department's or Customer's additional concerns at the meeting. At a minimum, the agenda items may include:
- a. Contract compliance
 - b. Savings report (in dollar amount and cost avoidance)
 - c. Spend reports by Customer
 - d. Recommendations for improved compliance and performance

Failure to comply with this section may result in the Contractor being placed on a Corrective Action Plan and possible termination of the Contract.

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

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