

KEY LARGO FIRE RESCUE AND EMS DISTRICT

**Contract for Goods:
In Excess of Threshold One
(Equal to or in Excess of \$15,000.00)**

WITNESSETH:

WHEREAS, the Key Largo Fire Rescue and Emergency Medical Services District (the "District"), has requested bids for a **RESCUE PUMPER**; and

WHEREAS, **FERRARA FIRE APPARATUS, INC.** ("Contractor") has submitted a bid, dated **MAY 8, 2012** to provide the services sought by the District; and

WHEREAS, **FERRARA FIRE APPARATUS, INC.** is duly qualified to provide the services sought by the District; and

WHEREAS, the District desires to engage **FERRARA FIRE APPARATUS, INC.** to provide such services for the District and **FERRARA FIRE APPARATUS, INC.** desires to provide such services for the District;

NOW, THEREFORE, in consideration of the mutual covenants and benefits hereinafter set forth, the parties herein covenant and agree as follows:

1. INVITATION TO NEGOTIATE AND BID INCORPORATED HEREIN

The terms and specifications of the Invitation to Negotiate, **Key Largo Fire Rescue and EMS District BID NO. 2012-01**, issued by the District on **APRIL 10, 2012**, and the terms of that bid submitted by Contractor on **MAY 8, 2012**, are herein incorporated by reference as if fully set forth herein, made part of this Contract and are attached hereto as ***Exhibits "A" and "B"***, respectively. In the event of a conflict between the terms of this Contract and any exhibit, the terms of this Contract shall control, unless otherwise agreed in writing as an amendment pursuant to the terms for such as provided herein.

2. TERM

The term of this Contract shall be **365 DAYS FROM DATE OF SIGNATURE.**

3. CONTRACTOR'S SERVICES

Contractor agrees to provide the following goods/services:
RESCUE PUMPER THAT MEETS SPECIFICATIONS IN EXHIBITS A AND B.

If documentation of the specific goods/services is attached, said documentation is labeled as *Exhibits "A" and "B"* to this Contract and is incorporated herein by reference. In the event of a conflict between the terms of this Contract and any exhibit, the terms of this Contract shall control, unless otherwise agreed in writing as an amendment pursuant to the terms for such as provided herein.

4. COMPENSATION

District shall pay Contractor the total sum of **\$398,517.00** ("Purchase Price") for services rendered pursuant to this Contract. Payment shall be made as follows:

A. DOWN PAYMENT

District shall pay Contractor seventy-five percent (75%) of the Purchase Price, \$298,887.75, at or before the execution of this Contract.

B. PAYMENT DUE AT DELIVERY

District shall pay to Contractor the remaining twenty-five percent (25%) of the Purchase Price, \$99,629.25, upon delivery and inspection of the Rescue Pumper.

C. METHOD OF PAYMENT

Payment shall be made directly to Contractor, Ferrara Fire Apparatus, Inc., in United States currency. Payment shall be by cash, certified check, or other instrument acceptable to Seller. No checks or any other form of payment shall be made to any sales representatives, dealers, agents, etc.

D. TAXES

If the Purchase Price is subject to any taxes, the taxes added will be that which are prevailing at the time of delivery.

Final payment shall not be due until the District verifies that all services for which payment has been requested have been fully and satisfactorily performed. The District will make diligent efforts to verify and pay invoices in accordance with the Florida Prompt Payment Act, Florida Statute 218.73.

5. DELIVERY

A. PLACE OF DELIVERY

Contractor shall deliver the Rescue Pumper to the District at the Key Largo Volunteer Fire Department, Station #24, 1 East Drive, Key Largo, FL 33037

("Buyer's Place of Business").

B. TIME FOR DELIVERY

Contractor shall deliver the Rescue Pumper to the District within three hundred and sixty five (365) calendar days of the date of signature of this Contract.

C. F.O.B.

Delivery shall be F.O.B. Buyer's Place of Business.

6. COMPLIANCE WITH LAWS AND POLICIES

Contractor agrees to comply with all current Key Largo Fire Rescue and Emergency Medical Services District policies and all applicable local, state and federal laws, including laws pertaining to public records requests. Contractor agrees that the District has the right to unilaterally and immediately cancel this Contract upon refusal by Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with the contract, unless the records are exempt from Section 24(a) of Art. I of the State Constitution and F.S. § 119.07(1). Should cancellation be necessary under this clause, the District is required only to provide written notice to Contractor, effective upon receipt of notice, which shall be documented.

7. INDEPENDENT CONTRACTOR STATUS

Contractor is, for all purposes arising under this Contract, an independent contractor. Contractor and its officers, agents or employees shall not, under any circumstances, hold themselves out to anyone as being officers, agents or employees of the District, nor any department thereof. No officer, agent or employee of the Contractor or District shall be deemed an officer, agent or employee of the other party. Neither Contractor nor District, nor any officer, agent or employee thereof, shall be entitled to any benefits to which employees of the other party are entitled, including, but not limited to, overtime, retirement benefits, workers compensation benefits, injury leave, or other leave benefits.

8. TERMINATION

A. WITHOUT CAUSE

This Contract may be terminated for any reason by either party upon sixty (60) days written notice to the other party at the addresses set forth below. If said Contract should be terminated as provided in this paragraph of the Contract, the District will be relieved of all obligations under said contract and the District will only be required to pay that amount of the contract actually performed to the date of termination with no payment due for unperformed work or lost profits.

B. TERMINATION FOR BREACH

Either party may terminate this Contract upon breach by the other party of any material provision of this Contract, provided such breach continues for fifteen (15) days after receipt by the breaching party of written notice of such breach from the non-breaching party.

C. IMMEDIATE TERMINATION BY DISTRICT

District may terminate this Contract immediately upon written notice to Contractor (such termination to be effective upon Contractor's receipt of such notice) upon occurrence of any of the following events:

- i. the denial, suspension, revocation, termination, restricting, relinquishment or lapse of any license or certification required to be held by the Contractor, or of any Company/Individual staff's professional license or certification in the State of Florida;
- ii. conduct by Contractor or any Company/Individual staff which affects the quality of services provided to the District or the performance of duties required hereunder and which would, in the District's sole judgment, be prejudicial to the best interests and welfare of the District;
- iii. failure by Contractor to maintain any insurance required by the terms of this Contract.

9. ASSIGNMENT

Neither Contractor nor the District may assign or transfer any interest in this Contract without the prior written consent of both parties. Should an assignment occur upon mutual written consent, this Contract shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

10. AMENDMENT

This Contract may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the District.

11. INDEMNIFICATION, GOVERNING LAW & VENUE

Contractor shall indemnify and hold harmless the Key Largo Fire Rescue and Emergency Medical Services District from and against any and all claims, liabilities, damages, and expenses, including, without limitation, reasonable attorneys' fees, incurred by the District in defending or compromising actions brought against it arising out of or related to the acts or omissions of Contractor, its agents, employees or officers in the provision of services or performance of duties

by Contractor pursuant to this Contract.

This Contract shall be construed in accordance with the laws of the State of Florida. Any dispute arising hereunder is subject to the laws of Florida, venue in Monroe County, Florida. The prevailing party shall be entitled to reasonable attorney's fees and costs incurred as a result of any action or proceeding under this Contract.

12. REPRESENTATIONS & WARRANTIES

Contractor represents and warrants to the District, upon execution and throughout the term of this Contract that:

- A) Contractor is not bound by any Contract or arrangement which would preclude it from entering into, or from fully performing the services required under the Contract;
- B) None of the Contractor's agents, employees or officers has ever had his or her professional license or certification in the State of Florida, or of any other jurisdiction, denied, suspended, revoked, terminated and/or voluntarily relinquished under threat of disciplinary action, or restricted in any way;
- C) Contractor has not been convicted of a public entity crime as provided in F.S. §287.133, to wit: A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid, proposal, or rely on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.; and
- D) Contractor and Contractor's agents, employees and officers have, and shall maintain throughout the term of this Contract, all appropriate federal and state licenses and certifications which are required in order for Contractor to perform the functions, assigned to him or her in connection with the provisions of the Contract.
- E) The Rescue Pumper manufactured by Contractor shall be warranted according to the provisions contained in the Warranty Certificate enclosed with the bid proposal package, incorporated herein by reference as *Exhibits "A" and "B"*.

13. BILLING

Bills for fees or compensation under this contract shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Further, bills for any travel expenses shall be submitted in accordance with F.S. § 112.061 where applicable.

14. THIRD-PARTY BILLING AND PAYMENT

Contractor shall not be entitled to bill nor accept third-party payment without authorization of the District and Contractor agrees that the District shall not be obligated to make any payment that exceeds the rate referred to in the paragraph governing Compensation. The Contractor shall provide service documentation in accordance with professional standards and District criteria as requested.

15. CONTRACT RECORDS RETENTION

Contractor agrees to comply with all state and federal regulations governing contracts with public entities, including but not limited to cooperation with public records requests as provided by law, cooperation with comptrollers and auditors as provided by law, and adherence to Title 34, section 80.36, which requires the retention of all records concerning a public entity contract for three (3) years after the District makes final payment and all other pending matters concerning the Contract are closed.

16. ETHICS CLAUSE

Contractor warrants that it has not employed, retained or otherwise had act on its behalf any former Key Largo Fire Rescue and Emergency Medical Services District officer or employee. For breach or violation of this provision the District may, in its discretion, terminate this contract without liability and may also, in its discretion, deduct from the contract or purchase price, or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid to the former Key Largo Fire Rescue and Emergency Medical Services District officer or employee.

17. CONFLICT OF INTEREST

The following provisions shall apply for conflict of interest. Any violation of these provisions by a District employee may be grounds for dismissal. No contract for goods or services may be made with any business organization in which the Director or a District member has any material financial interest unless it is a single source or clear documentation exists to show that no other supplier can provide the identical/comparable goods/service at a lower cost to the District. No District member, officer or employee may directly or indirectly purchase or recommend the purchase of goods or services from any business organization which they or their near relative have a material interest as defined by §112.313, Florida Statutes, except as allowed by DOE Interpretative Memorandum No. A-20. No District member, employee or official may receive gifts or any preferential treatment from vendors. Such members, officers, officials or employees shall not be prohibited from participating in any activity or purchasing program that

is offered to all District employees or in District surplus sales, provided there is no preferential treatment.

18. SEVERABILITY

The parties recognize and agree that should any clause(s) herein be held invalid by a Court of competent jurisdiction, the remaining clauses shall not be affected and shall remain of full force and effect.

19. COUNTERPARTS

This Contract may be executed in one or more counterparts, all of which together shall constitute only one Contract.

20. WAIVER

A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure to perform. Any waiver of insurance requirements as provided by this Contract and/or the policies of the District does not relieve the Contractor of the indemnification provisions contained within this Contract.

21. CAPTIONS

The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Contract.

22. ENTIRE CONTRACT

The parties hereto agree that this is the final Contract between the parties and supercedes any and all prior Contracts and/or assurances, be it oral or in writing.

23. NOTICES

All notices required by this Contract, unless otherwise provided herein, by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by Federal Express or Express Mail, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

Key Largo Fire Rescue and Emergency Medical Services District:
Chairman
P.O. Box 371023
Key Largo, FL 33037

With a copy to:

Key Largo Fire Rescue and Emergency Medical Services District Counsel
Vernis & Bowling of the Florida Keys, P.A.
81990 Overseas Hwy, 3rd Floor
Islamorada, FL 33036

Ferrare Fire Apparatus, Inc. ("Contractor"):
Chris Ferrara
P.O. Box 249
Holden, LA 70744

APPROVED:

_____ LEGAL DEPARTMENT (Initial Review)	_____ DATE
_____ LEGAL DEPARTMENT (Final Review)	_____ DATE

IN WITNESS WHEREOF, the parties have executed this Contract on this _____ day of

_____, _____.

_____ SIGNATURE OF DISTRICT CHAIRMAN	_____ DATE
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_____ SIGNATURE OF CONTRACTOR/REPRESENTATIVE	_____ DATE
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PRINT NAME AND TITLE