

PARTICIPATING ADDENDUM
TIRE SERVICES INCLUDING RECAPS – R2017112/SVC-TIRES/1718
Administered by the City of Punta Gorda, FL
Between
Boulevard Tire Centers (hereinafter Contractor)

And

Lee County Board of County Commissioners (hereinafter "Participating Entity")

- 1) **Scope:** This addendum covers tire services and recap tire purchases, including new tires offered on cooperative contracts, led by the City of Punta Gorda for use by governmental entities authorized by that state's statutes and Participating Entity's procurement code to utilize other government entities contracts with the prior approval of the Participating Entity's appropriate authority.
- 2) **Participation:** Use of this contract by agencies, political subdivisions and other entities authorized by an individual state's statutes and procurement codes are subject to prior approval of the Participating Entity's award authority and the City of Punta Gorda. Issues of interpretation and eligibility for participation are solely with the Participating Entity's authority.
- 3) **Contacts:** The contact individuals for this Participating Addendum are as follows:

Contractor:

| | |
|------------|--|
| Name: | Boulevard Tire Centers – Contact: Michael Drungell |
| Address: | 816 S. Woodland Blvd, Deland, FL 32720 |
| Telephone: | (386) 734-6447 |
| Fax: | (386) 734-5969 |
| E-mail | mdrungell@boulevardtire.com |

Participating Entity:

| | |
|------------|--|
| Name: | Lee County Board of County Commissioners |
| Address: | 2120 Main St. Fort Myers, FL 33901 |
| Telephone: | 239-533-8856 |
| Fax: | 239-485-8383 |
| E-mail | kciccarelli@leegov.com |

- 4) **Contractor's Branches:** All Boulevard Tire Center branches are authorized and approved to provide sales and service support to Participating Entities in this Agreement. Participation of the Contractor's branches must be in accordance with the terms and conditions set forth in the aforementioned Agreement.
- 5) **Orders:**
 - a. It is understood and agreed that each Participating Entity will place its own orders, be invoiced by the Contractor and make its own payments to the Contractor. It is also hereby mutually understood and agreed that the City of Punta Gorda is not a legally bound party to any contractual agreement made between the Contractor and the Participating Entity other than those orders placed by the City of Punta Gorda.
 - b. Any order placed by a Participating Entity for a product and/or services available from this Agreement shall be deemed to be a sale under and governed by the prices and other terms and conditions of this Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such order.

6) **Additional Terms:**

- a. All references to the "City" in the Agreement shall be interpreted to mean the Participating Entity.

- b. All references to "City Staff Responsibilities" shall be interpreted to mean Participating Entity staff responsibilities.
- c. Regarding Article 10, Change Order to Contract, all change orders shall be in compliance with the Lee County Procurement Ordinance and any provisions in the Agreement that are in conflict with the Lee County Procurement Ordinance shall be superseded by the relevant provisions from the Lee County Procurement Ordinance.
- d. In Article 11, Insurance Requirements, the following provision:

"City of Punta Gorda
326 W. Marion Avenue
Punta Gorda, Florida 33950"

Shall be superseded by:

"Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, Florida 33902"

- e. In Article 15, Indemnification/Limits of Liability, the following provision:

"For all claims against the Contractor under any individual purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under this Agreement for direct damages shall be limited to the greater of \$25,000, or the dollar amount of the purchase order, or two times the charges rendered by the Contractor under this Agreement. This limitation shall not apply to claims arising under the Indemnity paragraph contained in this agreement."

Shall be superseded by:

"For claims by the County against the contractor under any individual purchase order, and regardless of the basis on which the claim is made, the contractor's liability to the County under this Agreement for direct damages shall be limited to the greater of \$25,000, or the dollar amount of the purchase order, or two times the charges rendered by the Contractor under this Agreement. This limitation shall not apply to any third party claims or claims arising under the Indemnity paragraph contained in this Agreement."

- f. In Article 15. Indemnification/Limits of Liability, the following provision:

"Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the purchase order requires the CONTRACTOR to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY and Customer may, in addition to other remedies available to them at law or equity and upon notice to the CONTRACTOR, retain such monies from amounts due the CONTRACTOR as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The CITY may set off any liability or other obligation of the CONTRACTOR or its affiliates to the CITY against any payments due the CONTRACTOR under any contract with the CITY."

Shall be superseded by:

"Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages (except for personal injury, wrongful death, and damage to personal property), including lost data or records (unless the purchase order requires the CONTRACTOR to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY and Customer may, in addition to other remedies available to them at law or equity and upon notice to the CONTRACTOR, retain such monies from amounts due the CONTRACTOR as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The CITY may set off any liability or other obligation of the CONTRACTOR or its affiliates to the CITY against any payments due the CONTRACTOR under any contract with the CITY."

g. In Article 16(A), Miscellaneous, the following provisions:

“(941)575-3366, PGPURCH@CityofPuntaGordaFL.com , OR 326 W. MARION AVENUE, PUNTA GORDA FL 33950.”

Shall be superseded by:

“(239)-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, publicrecords@leegov.com; http://www.leegov.com/publicrecords.”

- h. In Article 16(H), Miscellaneous, the term “Charlotte County” shall be superseded by “Lee County.”
- i. In Article 16(I), Miscellaneous, the following provision shall be stricken from the Agreement and have no force or effect: “In the event of any dispute arising under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and expenses.”

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below:

Participating Entity:

Lee County Board of County Commissioners

By:

Name:

Commissioner Cecil L Pendergrass
Lee County Board of County Commissioners
District 2 12/09/2019

Date:

Contractor:

Boulevard Tire Centers

By:

Name: Earl W. Colvard

Title: President

Date: October 4, 2019

CITY OF PUNTA GORDA – APPROVAL TO PARTICIPATE

Anne Heinen
Name, Title Procurement Manager

Anne Heinen
Signature

11/7/2020
Date

PARTICIPATION IS NOT VALID WITHOUT A FULLY EXECUTED ADDENDUM BY THE PARTICIPATING ENTITY,
CONTRACTOR AND CITY OF PUNTA GORDA

Approved as to Form for the
Reliance of Lee County Only

By: [Signature]
Office of the County Attorney