



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

March 7, 2018

MEMORANDUM

TO: Mary Ellen Donner, Parks and Recreation Director

RE: Item II.B.2., Permission to Solicit Request for Qualifications (RFQ)/Bids for Design/Engineering Services and Construction; and Approve and Authorize the Chair to Execute the Resolutions and Local Agency Program (LAP) Agreements with Florida Department of Transportation (FDOT) for Design and Construction of the Florida Coast to Coast Parrish Park Trailhead

The Board of County Commissioners, in regular session on March 6, 2018, authorized the advertisement and award of the RFQ/Bids for Design/Engineering Services and award the construction bid for the Florida Coast to Coast Parrish Park Trailhead; authorized the Chair to execute the RFQ/Bid contracts and the forthcoming FDOT LAP Agreements and Resolutions; authorized the Chair to execute all necessary documents, agreements, and resolutions related to this project contingent upon review and approval by the County Attorney and Risk Management; and approved any Budget Change Requests associated with this action.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: Central Services Director  
Finance  
Budget

RECEIVED

APR 08 2018

County Manager's  
Office



BOARD OF COUNTY COMMISSIONERS

**Public Works Department**  
2725 Judge Fran Jamieson Way  
Building A, Room 201  
Viera, FL 32940  
321-633-2050

**Change Order #20  
03/17/2025**

**Brevard Contract # 10577**

**Originating Department: Public Works**

**Project Title: Florida Coast to Coast Trailhead at Parrish Park**

**FIN: 441778-2-58-01/02**

**FAP: FLAP 018F-D5210248**

**Contract #: G2896**

**Original Contract Amount: \$4,150,067.30**

**Current Contract Amount: \$4,166,030.54**

**Original Completion Date: Nov. 07, 2024**

**Current Completion Date: March 21, 2025**

**Original Contract Time: 247 Calendar Days**

**Current Contract Time: 381 Calendar Days**

**New Contract Amount: \$4,804,602.92**

**New Completion Date: Until Project is completed, with July 29, 2025, as date for Final Completion. For purposes of liquidated damages, the date for Substantial Completion shall be June 29, 2025.**

**New Contract Time: 511 Calendar Days**

**Total Cost of Work Associated with this Change Order: \$638,572.38**

**Total Granted Days: 130 Calendar Days to reach Final Completion**

**Reason for Change:** Time Extension due to Governor Declared Emergency (Per CPAM Section 7.6.5) and an Encumbrance Request for Extra Work per Contract G2896 Bid and Specifications Package, "Section 5 Contract, Article 7 Change Order, Sub-article 7.3 Extra Work" due to Hurricane Milton damage.

**The County considers this work to be State- and/or Federal-aid eligible, but approval from the appropriate State and/or Federal agencies may be required. In order to remain eligible, additional contract terms and conditions are required to be incorporated into the Original Contract. Therefore, the Contractor agrees to abide by and shall assist the County in complying with the attached contract provisions identified as Composite Exhibit A, which is attached hereto and incorporated herein by this reference. Specific consideration is hereby given and received by the Contractor to ensure compliance with such additional provisions.**

The Owner/County and Contractor have agreed that due to abnormal weather conditions experienced with Hurricane Milton (act of God beyond the control of either Party), the Contractor was prevented from completing a part of the work within the Contract Time (or Milestones) at Parrish Park. As this delay is beyond the control of Contractor, the Contract Time shall be extended an additional One-Hundred Thirty (130) Calendar Days to reach Final Completion of the Project. The Parties agree that the Contractor shall be entitled to an extension of Contract Time (or Milestone) of One- Hundred Thirty



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Calendar Days (130) and all costs associated with the damages and repairs that are required to re-establish the Project back to the original Contract Design.

The Contractor specifically acknowledges and agrees that no other damage claims whatsoever shall be made against the County or owed by the County to the Contractor. In consideration of this Change Order being executed by the Parties, the Contractor hereby waives any and all claims against the County arising from or relating to the subject matter of this Change Order, including, but not limited to, any time delays not specifically addressed herein and any damages of whatever kind that are incurred by the Contractor that are not otherwise specifically addressed herein. **The Contractor acknowledges that specific consideration has been given and received for this waiver.** The terms and conditions of the Original Contract, and any other amendments or modifications made thereto, shall remain in full force and effect, unless otherwise modified herein.

The following unforeseen damage has occurred as result of Hurricane Milton:

1. Erosion of embankment (preventing landscape installation from occurring and replacement at an additional cost).
2. Bollard/ Handrail foundation undermined (preventing installation of bollards and handrails).
3. Sidewalk undermined (removal and reconstruction necessary at an additional cost).
4. Underground Open Bottom Arch Drainage Storage System beneath the sidewalk undermined (removal and reconstruction necessary at an additional cost).
5. S-101 outfall structure undermined leading to unforeseen pipe damage (removal and reconstruction necessary at an additional cost).
6. Light Pole structure was damaged (replacement and reinstallation necessary at an additional cost).

These damages prevented the Contractor from completing the Project within the anticipated Contract Time (or Milestones).

**Due to additional time needed to secure and allocate funding for these hurricane repairs, all Parties have agreed to the following:**

- The Contractor has demobilized or shall demobilize as of January 18<sup>th</sup>, 2025, and temporarily suspend all onsite activities, after securing the site, as there is no work that can be performed until repair funds are allocated and the Engineer of Record can assess the damage and issue direction for repair.
- The County shall release any retainage to the Contractor for all work 100% completed to date (with proper invoice) and accepted by the County.
  - Payment to be released from the Original Contract Funds
    - Original Contract Amount Paid to Contractor to Date: \$3,955,079.54
    - Retainage to be Released to Contractor by this Change Order: \$197,753.98
- The County shall release payment to the Contractor for select materials stored on site:
  - Pay Item 515-1-2 Pipe Handrail; Guiderail: \$20,063.24



**BOARD OF COUNTY COMMISSIONERS**

- Pay Item 519-78 Bollards: \$15,310.64
- Payment to be released from the Original Contract Funds
- The County has inspected, accepted, and is currently storing in a secure storage container onsite the remaining Bollards and Pipe Handrails which could not be installed due to foundation wall damage. The Contractor agrees to provide all necessary labor and incidental materials necessary for successful installation upon completion of repairs to the foundation (as intended and funded under the Original Contract). The Parties agree that the fees and costs associated with the installation of the Bollards and Pipe Handrails shall be at the same rate identified in the Original Contract.

**Pay Item 515-1-2 Pipe Handrail, Guiderail, Aluminum 42IN**

Pay Item	Description	Bid Quantity	Unit	Unit Price	Original Dollars	Quantity Installed to Date	Dollars Paid to Date
515 1 2	PIPE HANDRAIL GUIDERAIL, ALUMINUM 42"	758.000	LF	\$225.00	\$170,550.00	508.00	\$114,300.00

Remaining Total Dollars to be Paid	Remaining Quantities	Fabrication Cost for Remaining Quantities	Final Installation Cost of Remaining Quantities
\$56,250.00	250.00	\$20,063.24	\$36,186.76

Apex Fabrication & Mechanics LLC. – Invoice

Total Fabrication Invoice Costs: \$60,829.50

Total Stored Materials: 250LF

Stored Material Costs: \$20,063.24

**Pay Item 519-78 Bollards**

Pay Item	Description	Bid Quantity	Unit	Unit Price	Original Dollars	Quantity Installed to Date	Dollars Paid to Date
519 78	BOLLARDS	102.000	EA	\$2,000.00	\$204,000.00	72	\$144,000.00

Remaining Total Dollars to be Paid	Remaining Quantities	Fabrication Cost for Remaining Quantities	Final Installation Cost of Remaining Quantities
\$60,000.00	30.00	\$15,310.64	\$44,689.36

The Park and Facilities Catalog- Invoice

Total Fabrication Invoice Cost: \$52,216.00



**BOARD OF COUNTY COMMISSIONERS**

Total Stored Materials: 30EA

Stored Material Costs: \$15,310.64

- The Contractor shall continue to carry insurance for the Project until final acceptance by the County.
  
- The Contractor shall continue to carry the Public Construction Bond per the contract as follows:  
*“The Public Construction Bond shall remain in force from the date of the Notice to Proceed until one year after the date of Final Acceptance as a protection to the Owner against losses resulting from latent defects in materials or improper performance of work under the Contract which may appear or be discovered during that period.”*
  
- Hurricane Milton Repairs and the necessary time extensions for the repair work and delays to the Contractor to date.
  - All repairs required to re-establish the Project back to the Original Contract Design:
    - Overrun of Original Base Bid Pay Items total: \$339,688.33
    - Additional Items Required to complete Repairs total: \$298,884.05
    - Total Hurricane Milton Costs by Change Order: \$638,572.38
  
- The Parties agree that the Original Contract shall remain in place until the Project receives final acceptance by the County, unless otherwise terminated in accordance with the terms and conditions of the Original Contract.
  
- June 29, 2025, shall be the date for Substantial Completion and Liquidated Damages (if such a need arises).
  
- July 29, 2025, shall be the date for Final Completion and Liquidated Damages (if such a need arises).

With approval of this Change Order:

The Substantial Completion date shall be extended to One- Hundred Thirty (130) calendar days from February 20, 2025, to June 29, 2025.

The Final Completion date shall be extended One- Hundred Thirty (130) calendar days from March 22, 2025, to July 29, 2025.

**Additional Cost associated with this Change Order \$638,572.38**

See attached:

- Retainage Backup
- Stored Materials Backup
- Entitlement Analysis
- Hurricane Milton Engineer’s Estimate
- Contractor’s Hurricane Milton Proposal
- Contract Calendar Tracking Sheet



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Signature Page for Change Order #20, 3/09/25, Brevard Contract Number 10577

Signature of Contractor: Curtis Deen Date: 03/27/2025

Name of Authorized Signer: Curtis Deen

Title of Authorized Signer: President of C&D Construction Inc.

Approval:

Kurt R. Luman, Jr.

Date: 03/28/2025

Kurt R. Luman, Jr., P.E.  
Engineer of Record, CPH Corporation

Gerena, Rachel Digitally signed by Gerena, Rachel  
DN:  
E=Rachel.Gerena@brevardfl.gov,  
CN=Gerena, Rachel  
Date: 2025.03.28 10:23:09-04'00'

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

Rachel Gerena, P.E.  
Engineering Program Manager

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

Rachel M. Sadoff  
Rachel M. Sadoff, Clerk

Rob Feltner

Rob Feltner, Chairman

Date: APR 08 2025

As approved by the Board on March 6, 2018

## COMPOSITE EXHIBIT A

### FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) CONTRACT REQUIREMENTS

During the performance of this contract, the Consultant and/or Contractor (hereinafter Consultant/Contractor) agrees as follows:

**1. Contract Work Hours and Safety Standards Act.**

Any contract in an amount in excess of \$100,000 is subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. As used in this section, the terms *laborers* and *mechanics* include watchmen and guards.

- a. Overtime requirements. No Consultant/Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph a. of this section the Consultant/Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant/Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph a. of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a of this section.
- c. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant/Contractor or subcontractor under any such contract or any other Federal contract with the same prime Consultant/Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Consultant/Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant/Contractor or subcontractor for unpaid wages and liquidated damages as provided in the

clause set forth in paragraph b of this section.

- d. Subcontracts. The Consultant/Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph a through d of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Consultant/Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs a through d of this section.

## **2. Equal Employment Opportunity provisions:**

During the performance of this contract, the Consultant/Contractor agrees as follows:

- a. The Consultant/Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant/Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant/Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The Consultant/Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant/Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Consultant/Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant/Contractor's legal duty to furnish information.

- d. The Consultant/Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant/Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Consultant/Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Consultant/Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Consultant/Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant/Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Consultant/Contractor will include the portion of the sentence immediately preceding paragraph a and the provisions of paragraphs a through h in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant/Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Consultant/Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant/Contractor may request the United States to enter into such litigation to protect the interests of the United States. The County further agrees that it will be bound by the above equal opportunity clause with

respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the County so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The County agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Consultant/Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The County further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant/Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Consultant/Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the County agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the County under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the County; and refer the case to the Department of Justice for appropriate legal proceedings.

### **3. Clean Air Act and the Federal Water Pollution Control Act**

Contractor shall comply with the following on all contracts in excess of \$150,000:

#### **a. Clean Air Act**

- (1) The Consultant/Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Consultant/Contractor agrees to report each violation to the COUNTY and understands that the COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection

Agency Regional office.

- (3) The Consultant/Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

b. Federal Water Pollution Control Act

- (1) The Consultant/Contractor agrees to comply with applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Consultant/Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Consultant/Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. Suspension and Debarment:

- a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Consultant/Contractor is required to verify that none of the Consultant/Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Consultant/Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by the County. If it is later determined that the Consultant/Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**5. Byrd Anti-Lobbying Amendment, 31 U.S.C. . § 1352 (as amended):**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**6. Certification for Contracts, Grants, Loans, and Cooperative Agreements**

Contractor must submit this certification for each bid or offer exceeding \$100,000.

The Consultant/Contractor certifies, to the best of his or her knowledge, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each

such failure.

The Consultant/Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant/Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

	03/27/2025	Curtis Deen, President
Signature	Date	Name and Title C & D Construction, Inc.

**7. Procurement of Recovered Materials:**

In the performance of this contract, the Consultant/Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- a. Competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.
- b. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- c. The Consultant/Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**8. Additional FEMA Requirements:**

- a. Access to Records
  - (1) In addition to being subject to Chapter 119, Florida Statutes, the Consultant/Contractor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative access to any books, documents, papers and records of the Consultant/Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
  - (2) The Consultant/Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
  - (3) The Consultant/Contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.
  - (4) In compliance with Section 1225 of the Disaster Recovery Act of 2018, the County and the Consultant/Contractor acknowledges and agrees

that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

- b. **DHS (Department of Homeland Security) Seal, Logo and Flags**  
The Consultant/Contractor shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Consultant/Contractor shall include this provision in any subcontracts.
- c. **Compliance with Federal Law, Regulations and Executive Orders**  
The Consultant/Contractor acknowledges that FEMA financial assistance will be used to fund all or a portion of the contract. The Consultant/Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.
- d. **No Obligation by Federal Government**  
The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Consultant/Contractor, or any other party pertaining to any matter resulting from the contract.
- e. **Affirmative Socioeconomic Steps (when subcontractors are to be let by Consultant/Contractor)**  
If subcontractors are to be let, the Consultant/Contractor is required to take all necessary steps identified in 2 C.F.R. 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- f. **License and Delivery of Works Subject to Copyright and Data Rights**  
The Consultant/Contractor grants to the County, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Consultant/Contractor will identify such data and grant to the County or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Consultant/Contractor will

deliver to the County data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the County.

**9. Fraud and False or Fraudulent or Related Acts:**

The Consultant/Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant/Contractor's actions pertaining to this contract.

**10. Davis-Bacon Act (when applicable)**

Contractor shall comply with the following provisions for any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions required by the applicable Federal grant program. These provisions are subject to any modifications thereof to meet the particular needs of the agency, provided, that such modifications are first approved by the Department of Labor:

a. Minimum wages.

(1) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Consultant/Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually

performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph a.(2) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Consultant/Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(2)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (ii) The classification is utilized in the area by the construction industry; and
- (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Consultant/Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Consultant/Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the

proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs a.(2)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Consultant/Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(4) If the Consultant/Contractor does not make payments to a trustee or other third person, the Consultant/Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Consultant/Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Consultant/Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- b. Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Consultant/Contractor under this contract or any other Federal contract with the same prime Consultant/Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Consultant/Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Consultant/Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the

Consultant/Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

c. Payrolls and basic records.

(1) Payrolls and basic records relating thereto shall be maintained by the Consultant/Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Consultant/Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(2)

(A) The Consultant/Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the Consultant/Contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required

weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Consultant/Contractor is responsible for the submission of copies of payrolls by all subcontractors. Consultant/Contractor and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the Consultant/Contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the Consultant/Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Consultant/Contractor to require a subcontractor to provide addresses and social security numbers to the prime Consultant/Contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Consultant/Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph c.(2)(B) of this section.

(D) The falsification of any of the above certifications may subject the Consultant/Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(3) The Consultant/Contractor or subcontractor shall make the records required under paragraph c.(1) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Consultant/Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Consultant/Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

d. Apprentices and trainees -

(1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Consultant/Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid

not less than the applicable wage rate on the wage determination for the work actually performed. Where the Consultant/Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Consultant/Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Consultant/Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on

the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Consultant/Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(3) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

- e. Compliance with Copeland Act requirements. The Consultant/Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- f. Subcontracts. The Consultant/Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Consultant/Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- g. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- h. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- i. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Consultant/Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- j. Certification of eligibility.

(1) By entering into this contract, the Consultant/Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Consultant/Contractor's firm is a person or firm ineligible to be awarded

Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**11. Copeland Anti-Kickback Act**

- a. Contractor. The Consultant/Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The Consultant/Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Consultant/Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**12. Breach of Contract / Violation of Terms**

- a. Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b. Pursuant to Federal Rule (A) above, when COUNTY expends federal funds, COUNTY reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

### **13. Remedies**

a. If a remedies clause provision exists in the contract (excluding any attachments or exhibits thereto), then that remedies provision shall control. However, if there is no remedies provision, then the following shall control:

(1) the Consultant/Contractor's remedy for default by the County is a written request to the County Manager seeking the funds from the County for work completed in accordance with the terms of the contract. If the claim is denied or not paid as requested, then, within thirty (30) days, the Consultant/Contractor may file a claim for such funds in a court of competent jurisdiction. Such a claim may not include consequential or special damages and shall not exceed the total contract amount.

(2) the County's remedy for default shall include termination of the contract and all remedies available to it at law that are necessary to make the County whole.

b. Force Majeure. If a force majeure provision exists in the contract (excluding any attachments or exhibits thereto), then that remedies provision shall control. However, if there is no force majeure provision clause, then the following shall control: neither Party shall be liable for its failure to perform hereunder if its performance is rendered impossible by any act, event or condition beyond its reasonable control which by the exercise of due diligence it shall be unable to overcome. Such acts, events or conditions shall include, but not be limited to the following: Acts of God, hurricanes, tornado, lightning, or earthquake; strikes or lockouts; acts of war, civil insurrection, riots or terrorism; fire or flood not caused by the Party unable to perform; change in law not due to improper conduct or to any negligent or intentional act or omission on the part of the Party unable to perform; and global pandemics. Should the Consultant/Contractor be obstructed or delayed in the prosecution or completion of its services or work as a result of said unforeseeable causes beyond the control of the Consultant/Contractor and not due to its own, or any of its agents', fault or neglect, Consultant/Contractor shall, within 24 hours of the time the delay becomes apparent, notify the County of such delay in writing stating the cause or causes thereof, failing which the Consultant/Contractor shall waive any right the Consultant/Contractor may have to request a reasonable extension of time to complete the work required by the contract. Such reasonable extensions of time to complete the work shall be the sole remedy of the Consultant/Contractor for such delays, and the Consultant/Contractor will not be entitled to any damages or any claim for extra compensation.

### **14. Termination for Cause**

If a termination for cause provision exists in the contract (excluding any attachments or exhibits thereto), then that termination for cause provision shall control. However, if there is no termination for cause provision, then the following shall control: either Party may terminate this contract for cause based upon the failure of the other Party to comply with the terms and/or conditions of the contract, or failure to fulfill its

performance obligations pursuant to this contract, provided that the non-defaulting Party shall give the defaulting Party written notice specifying the Party's default. If within thirty (30) days after receipt of such notice, the defaulting Party shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the non-defaulting Party may, at its option, place the defaulting Party in default and the contract shall terminate on the date specified in such notice. In the case of termination notice issued by the County, the County may take over the work and cause it to be performed to completion by written agreement with a different contractor or otherwise. In such case, the County reserves all rights and remedies available, including, but not limited to, the right to recover the County's additional cost incurred in securing complete performance. The rights and remedies of the County provided in this clause are in addition to any other rights and remedies provided by law or under this contract. If, after the County's notice of termination for cause is issued, it is determined that Consultant/Contractor had not breached its contractual obligations, then the termination shall be deemed to be effected for the County's convenience.

**15. Termination for Convenience**

If a termination for convenience provision exists in the contract (excluding any attachments or exhibits thereto), then that termination for convenience provision shall control. However, if there is no termination for convenience provision, then the following shall control: either Party may terminate this contract at any time by giving thirty (30) days written notice to the other Party of such termination. Such termination is effective upon the Party's receipt of the Notice of Termination. Upon receipt of such a notice, the Parties will discontinue all services affected, unless the notice directs otherwise. The Consultant/Contractor shall be entitled to payment for services rendered, to the extent work has been performed satisfactorily.

**16. Prohibition on Contracting for Covered Telecommunications Equipment of Services**

- a. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
- b. Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216

prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph c. of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(A) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(B) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(C) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(D) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c. Exceptions.

(1) This clause does not prohibit contractors from providing—

(A) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(B) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

- (A) Covered telecommunications equipment or services that:
  - (i) Are not used as a substantial or essential component of any system; and
  - (ii) Are not used as critical technology of any system.
- (B) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d. Reporting requirement.

(1) In the event the Consultant/Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Consultant/Contractor is notified of such by a subcontractor at any tier or by any other source, the Consultant/Contractor shall report the information in paragraph d.(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Consultant/Contractor shall report the following information pursuant to paragraph d.(1) of this clause:

(A) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(B) Within 10 business days of submitting the information in paragraph (d)(2)(A) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Consultant/Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

e. Subcontracts. The Consultant/Contractor shall insert the substance of this clause, including this paragraph e., in all subcontracts and other contractual instruments.

**17. Domestic Preferences for Procurement**

As appropriate, and to the extent consistent with law, the Consultant/Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

*Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

*Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**18. Compliance with Federal Laws, Regulations and Executive Orders**

This is an acknowledgement that financial assistance from FEMA or another Federal agency will be used to fund all or a portion of this contract. The Consultant/Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(SIGNATURE PAGE FOLLOWS)

**Acknowledgement and Certification**

THE CONSULTANT/CONTRACTOR AGREES TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES. IT IS FURTHER ACKNOWLEDGED THAT THE CONSULTANT/CONTRACTOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS REGULATIONS, ETC., AS SPECIFICALLY NOTED ABOVE.

Company Name C & D Construction, Inc.

Address 395 S. Range Road

Cocoa, FL 32926

Telephone (321) 639-9198 Fax (321) 690-2291

Email Address Curtis@c-dconstruction.com

Name and Title of Authorized Signature Curtis Deen, President

Authorized Signature 

**BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION CONTRACTS, GRANTS,  
LOANS, AND COOPERATIVE AGREEMENTS  
REQUIRED FOR CONTRACTS OVER \$100,000**

CONTRACTORS who apply or bid for an award of \$100,000 or more shall fill out and return the following required certification to COUNTY. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(SIGNATURE PAGE FOLLOWS)

The Consultant/Contractor, C & D Construction, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant/Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Company Name C & D Construction, Inc.

Address 395 S. Range Road

Cocoa, FL 32926

Telephone (321) 639-9198 Fax (321) 690-2291

Email

Address Curtis@c-dconstruction.com

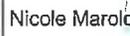
Name and Title of Authorized Signature Curtis Deen, President

Authorized Signature  \_\_\_\_\_

## Entitlement Analysis Change Order # 20

<b>Brevard County</b>			
FIN:	441778-2-58-01	Date Prepared:	3/9/2025
Contract No.:	G2896	CEI Consultant:	Civil Site Engineering Inc.
Project Name:	Florida Coast Coast Trailhead - Parish Park	Project Administrator(s):	Nicole Marold
FAP:	FLAP -018F / D521-024-B		
<b>Description of Issue (s)</b>			
<p>1) An extension to the contract is required due to the following unforeseen damage caused by Hurricane Milton:</p> <p>1a. Re-establish the embankment to allow for landscaping installation</p> <p>1b. Bollards/ Handrailing Foundation undermined which prevented completion of installation for bollards and handrailing.</p> <p>1c. Sidewalk undermined which requires the removal and reconstruction of sidewalk at an additional cost.</p> <p>1d. Underground Open Bottom Arch Drainage Storage System beneath the sidewalk was undermined requiring removal and reconstruction at an additional cost.</p> <p>1e. Outfall Structure S-101 was undermined which lead to unforeseen drainage pipe damage and requires removal and reconstruction at an additional cost.</p> <p>1f. A Light Pole was damaged and requires the replacement of a new pole and hardware at an additional cost.</p> <p>2) Due to the additional time needed to secure and allocate funding for the Hurricane repairs, all Parties (The Owner and Contractor) have agreed the Contractor is to demobilize as of January 18, 2025 and temporarily suspend all onsite activities as there is no other work the Contractor can perform until all repair funds are allocated and the Engineer of Record can assess the damages and provide direction for a repair. The County agrees to release all retainage to the Contractor from all work which has been completed to 100 percent.</p> <p>3) Due to the Owner/ County's direction for a "Temporary Suspension of Work on Pay Item 519-78 Bollards and 515-1-2 Pipe Handrail Guiderail due to Hurricane Milton Storm Damage" the contractor was unable to complete the final installation of 250LF of Pipe Handrailing and 30EA Bollards between station 111+00 to 115+59. Due to this Temporary Suspension the Owner has agreed to pay the Fabrication Cost as "Stored Materials" for the remaining quantities.</p> <p>4) Due to Hurricane Milton all of the embankment material along the northern shoreline, between station 104+00 to 115+59, the construction items at the east end of the project, between station 111+80 to 115+58, and the Light Pole, at station 115+00, received extensive damaged caused by high tides, excessive winds, and storm surge. This damage, caused by the storm, includes undermining on the following construction items: bollard foundation, Structure S-101, sidewalk, bedding stone, the Drainage Arch Storage System, and F curbing. Due to the settlement of the bollard foundation, the ADA requirements could not be met with the just the replacement of sidewalk. Material to "Cap" the bollard foundation shall be placed to level the foundation elevation to match the back of sidewalk to ensure ADA Compliance. Due to these necessary repairs all construction items damaged will be required to be removed and replaced and material placed to "cap" the bollard foundation will be required to re-establish the project back to the Original Design.</p>			
<b>Entitlement Analysis:</b>			
<p>1) Per the CPAM Section 7.6.5 "Time Extension due to Governor Declared Emergency"(Executive Order No. 24-214) The Owner/ County concurs with granting additional time to the Contract. The Owner and Contractor have agreed that due to abnormal weather conditions experienced with Hurricane Milton (act of God beyond the control of either Party), the Contractor was prevented from completing a part of the work within the Contract Time (or Milestone) at Parish Park. As this delay is beyond the control of the Contractor, the Contract Time shall be extended One- Hundred Thirty (130) Calendar Days. This extension to allow additional time to complete all necessary construction associated with the damages and repairs that are required to re-establish the project back to the Original Contract Design.</p> <p>2) The Owner/ County shall modify the Contract Specifications to allow for the release of retainage to the Contractor. The Five Percent (5%) Retainage, which has been held from each previous Pay Application during the life of the contract for all work completed shall be paid to the Contractor, once properly invoiced and accepted by the Owner.</p> <p>2a. The Original Contract Amount Paid to the Contractor to Date (which requires release of the five percent retainage): \$3,955,079.54</p> <p>2b. The Five Percent (5%) Retainage to be released to the Contractor by Change Order: \$197,753.98</p> <p>3) Due to Hurricane Milton damage between station 111+00 to 115+59 the contractor is unable to complete installation of Pay Item 515-1-2 Pipe Handrail, Guiderail, Aluminum 42" and Pay Item 519-78 Bollards. To help offset the overhead cost made by the contractor for these materials not currently installed, the Owner, Brevard County, has agreed to a one-time payment of \$35,373.88 that will be made for fabrication costs on the stored materials. To calculate the fabrication only costs the Owner has agreed to use the Contractor's Invoicing for each pay item and pay the percent required for the remaining materials not installed.</p> <p>3a. Pay Item 515-1-2 Pipe Handrail, Guiderail, Aluminum 42ln a payment of \$20,083.24 will be made on 250LF of handrail being stored material.</p> <p>3b. Pay item 519-78 Bollards a payment of \$15,310.64 will be made on 30EA bollards being stored</p> <p>4) Per the Contract G2896 Bid and Specifications Package, "Section 5 Contract, Article 7 Change Order, Sub-Article 7.3 Extra Work" The Owner/ County concurs with granting the Contractor the additional costs of \$638,572.38 for the compensation of all items incorporated with the overrun of existing quantities, additional item costs associated with construction activities, and additional material costs associated with capping of the bollard foundation. These additional unforeseen costs shall be required to bring the project into Specifications and tolerance with the Contract Documents and Design.</p> <p>Contractor's Proposal Costs: \$638,572.38 CEI Estimate for additional Costs: \$646,488.21</p> <p>The Owner/ County concurs with granting the Contractor the additional costs of \$638,572.38 for compensation of all items incorporated with the Change Order.</p>			
<b>Time Extension Analysis:</b>			
<p>An analysis of the impact to the schedule was performed by the CEI.</p> <p>Due to the significance of damage caused by Hurricane Milton a Time Extension to complete all required work should be granted extending the Contract One- Hundred Thirty (130) Calendar Days</p> <p>The Substantial Completion date shall be extended to One- Hundred Thirty (130) calendar days from February 20, 2025 to June 29, 2025.</p> <p>The Final Completion date shall be extended One- Hundred Thirty (130) calendar days from March 22, 2025 to July 29, 2025.</p>			
<b>Premium Cost Analysis:</b>			
<p>Premium Costs will be required for this Change Order due to Work Delays, Rework, and Extra Work caused by abnormal weather conditions experienced with Hurricane Milton (act of God beyond the control of either Party)</p> <p>Premium Cost Total: \$638,572.38</p>			

Civil Site Engineering Inc.  
Project Administrator:

  
**Nicole Marold**  
CEI is a registered Professional Engineering Firm, CEI/CEI  
 Civil Site Engineering, Inc. 20000 US Highway 1  
 Suite 2000, Ft. Pierce, FL 34946



*Florida Department of Transportation*

RON DESANTIS  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

JARED W. PERDUE, P.E.  
SECRETARY

**TROPICAL STORM MILTON  
FDOT EMERGENCY ORDER 24-12  
(Pursuant to Executive Order No. 24-214)**

**WHEREAS**, on October 5, 2024, Governor Ron DeSantis issued Executive Order 24-214 regarding showers and thunderstorms associated with an area of low pressure located over the southwestern Gulf of Mexico, now identified as Tropical Storm Milton; and

**WHEREAS**, atmospheric and oceanic conditions are anticipated to support rapid intensification over the Gulf of Mexico, and Tropical Storm Milton is forecast to become a hurricane by early Monday; and

**WHEREAS**, this system could become a major hurricane near or at landfall along the West Florida Coast by the middle of next week; and

**WHEREAS**, there is an increasing risk of life-threatening storm surge and wind impacts for portions of the western Florida Peninsula beginning as soon as later Tuesday or Wednesday; and

**WHEREAS**, areas of heavy rainfall will impact portions of Florida well ahead of the tropical system, impacting Florida Gulf Coast communities still recovering from recent Major Hurricane Helene; and

**WHEREAS**, current computer modeling shows rainfall predictions of four to eight inches across the Florida Peninsula, with locally higher amounts in excess of eight to twelve inches possible; and

**WHEREAS**, much of Florida has recorded above normal rainfall over the past 30 days; North Florida has experienced rainfall totals of six to twelve inches above normal, with portions of the eastern Florida Panhandle measuring fifteen to twenty inches above normal for this time of year; and

**WHEREAS**, this level of soil saturation will likely lead to a more rapid onset to flash, urban, and riverine flooding next week; and

**WHEREAS**, heavy rainfall, flooding and gusty winds will cause power outages due to downed trees and powerlines due to the already vulnerable state of Florida's vegetation and coastal infrastructure; and

**WHEREAS**, the consequences of these impacts could damage the operational capability of critical infrastructure including major interstates and roadways, bridges, airports, schools, hospitals, power grids, in addition to prolonging recovery efforts from Major Hurricane Helene; and

**WHEREAS**, the Florida Department of Transportation is prepared to deploy resources to support the disaster response efforts related to Tropical Storm Milton.

NOW, THEREFORE, I, JARED W. PERDUE, P.E., Secretary of the Florida Department of Transportation, hereby find that the Department of Transportation's timely performance of disaster response functions related to Tropical Storm Milton is hindered by the application of procedures imposed by statute, rule, or order.

Therefore, pursuant to the authority granted by Executive Order No. 24-214, I hereby:

1. Waive and suspend the following rules and statutes: sections 316.515(1)-(3), 316.535(1) and (3), 316.545(2) and (4), 316.550(1), and 337.401(1)(a), Florida Statutes, and Rules 14-28.002(4) and (5), and 14-46.001(2), Florida Administrative Code, to the extent

needed to allow the establishment of alternate size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes, and agricultural commodities and citrus as recommended by the Commissioner of Agriculture, and as needed to waive by special permit the warning signal requirements in the Utility Accommodation Manual to accommodate public utility companies from other jurisdictions to render assistance in restoring vital services, subject to the limitations expressed in Executive Order No. 24-214.

2. Waive and suspend sections 112.061, 216.292, 216.313, 287.055, 287.056, 287.057(1)-(10), (12), (17), (20) and (25), 287.0823, 287.15, 337.02(2), 337.107, 337.11, 339.08, and 339.135(6), Florida Statutes, and Rules 60A-1.002, 60A-1.017, 60A-1.021, 60A-1.043, and 60A-1.045, Florida Administrative Code, as they relate to leasing, printing, purchasing, travel, the conditions of employment and the compensation of employees, or the use of State Transportation Trust Funds off the State Highway System, to the extent necessary to ensure the timely performance of the Department of Transportation's disaster response functions as prescribed in the State Comprehensive Management Plan or as directed by the State Coordinating Officer.
3. In accordance with section 1 of Executive Order No. 24-214, the foregoing waivers and suspensions of statute are limited to Brevard, Broward, Charlotte, Citrus, Collier, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Marion, Martin, Miami-Dade, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia counties.

4. All actions taken by the Florida Department of Transportation with respect to this emergency before the issuance of this Emergency Order are hereby ratified.

This order shall expire on October 21, 2024, the expiration or rescission of Executive Order No. 24-214, or my further order, whichever is earlier.

Effective Date: October 6, 2024.

DocuSigned by:  
*Jared W. Perdue*  
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\_\_\_\_\_  
Jared W. Perdue, P.E., Secretary  
Florida Department of Transportation

C & D Construction  
 Financial Project No.: 441778-2-58-01  
 Contract: G2896

3/10/2025

**CONTRACT DAY TABLE**

Month	Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
Jan	2024																																	
Feb	2024																																	
March	2024					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26			
April	2024	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56			
May	2024	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87		
June	2024	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117			
July	2024	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148		
Aug	2024	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179		
Sept	2024	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209			
Oct	2024	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240		
Nov	2024	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270			
Dec	2024	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301		
Jan	2025	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332		
Feb	2025	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360					
March	2025	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391		
April	2025	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421			
May	2025	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452		
June	2025	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482			
July	2025	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513		
Aug	2025	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543			

217	Contract Day # 1
9	Original Substantial Completion
76	Added Days due to Holidays
247	Weather Days Granted/Weather Recovery Days
264	Original Final Acceptance
481	Total Days Granted (Includes Weather/ Holidays/ Approved CO's)
511	New Substantial Completion Date including all extensions
	Allowable Contract Time including all extensions