



AGENDA REPORT
July 10, 2018

**Award of Bid No. B-4-18-49 Cone Road Improvements to DP Development
of the Treasure Coast, LLC – District 2**

SUBJECT:

Award of Bid No. B-4-18-49 Cone Road Improvements to DP Development of the Treasure Coast, LLC.

FISCAL IMPACT:

No new additional fiscal impact is anticipated. Public Works has budgeted \$1,300,000 for the roadway, drainage and sidewalk construction. MIRA provided \$1,600,000 via Interlocal Agreement (ILA) to fund their portion of the project. Per the ILA, MIRA is responsible for any additional funding required for this project. The current Cone Road Capital Improvement Plan (CIP) budget and grant funding is sufficient to cover the estimated construction costs of the roadway, drainage and public sewer system.

DEPT/OFFICE:

Public Works

REQUESTED ACTION:

Award of Bid No. B-4-18-49 Cone Road Improvements to DP Development of the Treasure Coast, LLC in the amount of \$2,228,553.40 and authorize the Chair to execute the contract with DP Development of the Treasure Coast, LLC. It is also requested that the Board authorize the County Manager to submit a Department of Environmental Protection 319 grant application for the septic system close-out phase of Cone Road Improvements and authorize the Chair to execute the 319 grant, if awarded; and approve any Budget Change Requests associated with this action.

SUMMARY EXPLANATION and BACKGROUND:

On November 21, 2017, the Board rejected all bids submitted for Bid No. B-4-17-93 for the Cone Road Improvements; found it in the public interest to have Public Works Road and Bridge Construction perform the storm drainage pipe installation, water quality treatment train, sidewalk construction and fence installation; directed staff to rebid the sanitary sewer construction which also includes force main removal and replacement and water utility adjustments. The Board further directed staff to report on the re-bid outcome and status of grant funding and schedules.

On March 27, 2018, DP Development of the Treasure Coast, LLC submitted the only re-bid for the sanitary sewer and utility work for the Cone Road Improvements in the amount

of \$2,228,553.40. Road and Bridge Construction updated their construction estimate to include certain roadway work that will not be performed by DP Development. The current construction estimate (Road and Bridge and DP Development) for the Cone Road Improvements totals \$3,596,936.80 which is a savings of almost \$300,000 from the original 2017 bid outcome.

The St. Johns River Water Management District (SJRWMD) grant term will expire on September 30, 2018. Staff has requested a grant extension and received indication that District SJRWMD staff will support the request. The extension request will be presented to the SJRWMD Governing Board on August 14, 2018. If the Governing Board approves, a grant contract amendment will need to be executed to extend the SJRWMD grant completion date. The grant amendment will be presented to the Board of County Commissioners at an upcoming meeting for their consideration to approve and authorize the Chair to execute the amendment. Road and Bridge Construction intends to commence construction in October 2018. Once the sewer system is installed, the property owners must connect to the public sewer system within one year of the completion date. Presently, the SJRWMD will provide up to \$133,155 in funding towards the cost of the septic system close-out phase. Furthermore, the Save Our Indian River Lagoon (SOIRL) has agreed to provide funding for the property owners' sewer connection fee. The County may submit an application to the Department of Environmental Protection (DEP) 319 grant program. If awarded, the 319 grant could provide additional funding for the septic system close-out phase of the Cone Road project.

ATTACHMENTS:

Description

No Attachments Available



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

July 11, 2018

MEMORANDUM

TO: Andrew Holmes, Public Works Director

RE: Item F.14., Award of Bid No. B-4-18-49 Cone Road Improvements to DP Development of the Treasure Coast, LLC

The Board of County Commissioners, in regular session on July 10, 2018, granted award of Bid No. B-4-18-49, Cone Road Improvements to DP Development of the Treasure Coast, LLC in the amount of \$2,228,553.40; authorized the Chair to execute the Contract with DP Development of the Treasure Coast, LLC; authorized the County Manager to submit a Department of Environmental Protection 319 grant application for the septic system close-out phase of Cone Road improvements; authorized the Chair to execute the 319 grant; and approved any Budgetary Change Requests associated with this action.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/kp

cc: Finance
Budget

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor:	
2. Fund/Account #:	3. Department Name: Public Works
4. Contract Description: Cone Road Specifications & Contract Documents	
5. Contract Monitor: Jeanette Scott	7. Contract Type:
6. Dept/Office Director: Andrew J. Holmes, P.E., Public Works	CONSTRUCTION

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input type="checkbox"/>	<input type="checkbox"/>		
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lairsey, Matt <small>Digitally signed by Matt Lairsey DN: cn=Matt Lairsey, o=Department of Public Works, ou=County of Brevard, ou=FL, ou=US, email=mlairsey@brevard.com, date=2018.01.30.10:28:17-0500</small>	01/30/2018
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Yuan, Diana <small>Digitally signed by Yuan, Diana DN: cn=Diana Yuan, o=Department of Public Works, ou=County of Brevard, ou=FL, ou=US, email=dyuan@brevard.com, date=2018.02.19.10:16:28-0500</small>	02/19/2018

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>James Holmes</i> James Holmes, Esq.	10/8/18
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Lairsey <small>Digitally signed by Matt Lairsey DN: cn=Matt Lairsey, o=Department of Public Works, ou=County of Brevard, ou=FL, ou=US, email=mlairsey@brevard.com, date=2018.09.28.10:14:50-0400</small>	09/28/2018
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brewer, Jad <small>Digitally signed by Brewer, Jad DN: cn=Jad Brewer, o=Department of Public Works, ou=County of Brevard, ou=FL, ou=US, email=jbrewer@brevard.com, date=2018.09.28.10:14:50-0400</small>	09/28/2018

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<u>CM DATABASE REQUIRED FIELDS</u>	<u>Complete</u> ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Data (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



Public Works Department
2725 Judge Fran Jamieson Way
Building A, Room 201
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Clerk to the Board

TO: Rita Pritchett, Chair

THRU: Frank Abbate, County Manager

THRU: John P. Denninghoff, Assistant County Manager

THRU: Dan Jones, Interim Public Works Director

FROM: Tammy Thomas-Wood, Support Services Manager

RE: Specifications and Contract Documents for Cone Road Improvements Bid No. B-4-18-49

DATE: October 8, 2018

RECEIVED

OCT 08 2018

County Manager's
Office

On July 11, 2018, the Board of County Commissioners authorized the Chair to execute the Contract (Specifications & Contract Documents) for the Cone Road Improvements for Bid No. B-4-18-49 to DP Development of the Treasure Coast, LLC. The award is the amount of \$2,228,553.40. Per AO-29 Contract Administration, the Specifications and Contract Documents were reviewed and approved by the County Attorney's Office and Risk Management.

In accordance with County policies and procedures, staff is respectfully requesting signature by the Chair for the Specifications and Contract Documents (3 originals) with the Contractor for Bid No. B-4-18-49. The Clerk will attest your signature.

Clerk to the Board Instructions: Upon action by the Clerk, please retain the original of the fully executed Specifications & Contract Documents. Please contact Jeanette Scott at 321-617-7202 or by email at jeanette.scott@brevardfl.gov for the return of the remaining two counterparts of the Contract to the Public Works Department.

Please feel free to contact our office if you have any questions or concerns.

Encl: Specifications and Contract Documents (1 Entire Packet + 3 counterparts of the Contract)
Clerk's Memorandum Board Approval
AO-29 Initial Contract Review and Approval Form

cc: Jon McLester, Procurement Supervisor

SECTION V

CONTRACT

THIS AGREEMENT, made and entered into this 19th day of September, 2018, A.D., by and between Brevard County, Florida, party of the first part (hereinafter sometimes called the "Owner"), and DP Development of the Treasure Coast, LLC., party of the second part (hereinafter sometimes called the "Contractor").

WITNESSETH: That the parties hereto, for the consideration hereinafter set forth, mutually agree as follows:

1. SCOPE OF THE WORK

- 1.1 The Contractor shall furnish all labor, materials, equipment, machinery, tools, apparatus, and transportation and perform all of the work shown on the Bid Form that is not marked as "Provided by Owner" and that is shown on the Drawings and described in the Specifications entitled:

Cone Road Drainage and Sidewalk Improvements
Cone Road Infrastructure Improvements

Plans as prepared Bussen-Mayer Engineering Group, Inc.; Job #388006, Work Order #2014-2682-B-007 and Job #394002.

2. THE CONTRACT SUM

- 2.1 The Owner shall pay to the Contractor for the faithful performance of the Contract, in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents.
- 2.2 Based upon the price shown in the Proposal heretofore submitted to the Owner by the Contractor, a copy of said Proposal being a part of these Contract Documents, the aggregate amount of this Contract is the sum of Two Million Two Hundred Twenty-Eight Thousand Five Hundred Fifty-Three Dollars and Forty Cents (\$2,228,553.40).

3. COMMENCEMENT AND COMPLETION OF WORK

- 3.1 The Contractor shall commence work within 10 calendar days after issuance of Notice to Proceed.
- 3.2 The Contractor shall prosecute the work with faithfulness and diligence and shall achieve Substantial Completion of the work no later than three hundred (300) calendar days after issuance of Notice

to Proceed. The Contractor shall have an additional thirty (30) calendar days from Substantial Completion of the work to achieve final acceptance by the County.

4. CONTRACTOR'S ACCEPTANCE OF CONDITIONS

- 4.1 The Contractor hereby agrees that the surface of the site has been carefully examined and sufficient test holes have been made, or other subsurface investigations made and is satisfied that such site is a correct and suitable one for this work and assumes full responsibility therefore.

The provisions of this contract shall control any inconsistent provisions contained in the specifications. All Drawings and Specifications have been read and carefully considered by the Contractor, who understands and agrees to their sufficiency for the work to be done. It is expressly agreed that under no circumstances, conditions or situations, shall this Contract be more strongly construed against the Owner than against the Contractor and the Surety.

- 4.2 Any ambiguity or uncertainty in the Drawings or Specifications shall be interpreted and construed by the Engineer of Record and the final determination given by the Owner shall be final and binding upon all parties.
- 4.3 It is distinctly understood and agreed that the passing, approval and acceptance of any part of the work or material by the Owner, the Engineer of Record, or by any agent or representative of the Owner or Engineer of Record as in compliance with the terms of this Contract and of the Drawings and Specifications covering said work, shall not operate as a waiver by the Owner of strict compliance with the terms of this Contract, and/or the Drawings and Specifications covering said work; and the Owner may require the Contractor and the Surety to repair, replace, restore and/or make the work comply strictly, and in all things, with this Contract and the Drawings and Specifications. Any and all of said work and/or materials which within a period of one year from and after the date of the passing, approval, and/or acceptance of any such work or material, are found to be defective or to fail in any way to comply with this Contract or with the Drawings and Specifications. This provision shall not apply to materials or equipment normally expected to deteriorate or wear out and become subject to normal repair and replacement before their condition is discovered. The Contractor shall not be required to do normal maintenance work under the guarantee provisions. Failure on the part of the Contractor and the Surety to immediately repair or replace

any such defective materials and workmanship shall entitle the Owner, in the Owner's sole discretion, to replace or repair the same and, after notice, recover the reasonable cost of such replacement and repair from the Contractor and the Surety, who shall in any event be jointly and severally liable to the Owner for all damage, loss and expense caused to the Owner by reason of the Contractor's breach of this Contract and the Contractor's failure to comply strictly and in all things with this Contract and with the Drawings and Specifications.

5. LIQUIDATED DAMAGES

- 5.1 It is mutually agreed that time is of the essence of this Contract and should the Contractor fail to complete the work within the specified time to achieve Substantial Completion, or any authorized extension thereof, there shall be deducted from the compensation otherwise to be paid to the Contractor, and the Owner will retain the amount of liquidated damages stated in Section VII, Article 38.1 of the Specifications and Contract Documents, per calendar day elapsing beyond the specified time for Substantial Completion or any authorized extension thereof, which sum shall represent the actual damages which the Owner will have sustained by failure of the Contractor to complete the work within the specified time; it being further agreed that said sum is not a penalty, but is the stipulated amount of damages sustained by the Owner in the event of such default by the Contractor.
- 5.2 For the purposes of this Article, the day of final acceptance of the work shall be considered a day of delay, and the scheduled day of final acceptance of the work shall be considered a day scheduled for production.

6. PARTIAL AND FINAL PAYMENTS

- 6.1 In accordance with the provisions fully set forth in the General Conditions, and subject to additions and deductions as provided, the Owner shall pay the Contractor as follows:
- (a) The General Contractor must provide Subcontractor(s) releases from the prior payment draw prior to making the next payment draw, and require Subcontractor Waivers of Rights Against Payment Bond for only the previous pay request. Notwithstanding the foregoing pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the Project or payment in question, no such waivers shall be

required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be effective upon receipt.

- (b) Upon submission by the Contractor of evidence satisfactory to the Owner that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, and also, after all guarantees that may be required in the specifications have been furnished and are found acceptable by the Owner, final payment on account of this Agreement shall be made within sixty (60) days after completion by the Contractor of all work covered by this Agreement and acceptance of such work by the Owner.

7. ADDITIONAL BONDS

- 7.1 It is further mutually agreed between parties hereto that if, at any time after the execution of this Agreement and the Public Construction Performance Bond and the Public Construction Payment Bond hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at the Contractor's expense, and within three days after the receipt of Notice from the Owner to do so, furnish an additional bond or bonds, in such form and amount, and with such sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Owner.

8. CONTRACT DOCUMENTS

- 8.1 The Contract Documents, as stated in the Instructions to Bidders and attached hereto, are as fully a part of this Contract as if herein repeated. An enumeration of the Drawings accompanying these Contract Documents follows:

Index of Roadway Plans for Cone Road Drainage and Sidewalk Improvements:

<u>Sheet No.</u>	<u>Title</u>
1	Cover Sheet
2	General Notes/Summary of Pay Items/Restraint Chart

3	Drainage & Sewer Structure Schedules
4-7	Existing Conditions & Demolition Plan
8-14	Cone Road Plan & Profiles
15	Existing Lift Station Rehab Plan & Profile, Detail Sheet
15A-15C	Side Street Profiles
16-17	Sections
18-24	Cone Road Dimension, Signage & Striping Plan
25-27	Construction Details
28-30	Sanitary Sewer Details
31	Brevard County Public Works Standard Engineering Development Notes
32	Maintenance of Traffic Details & Notes
33	Temporary Traffic Control Plan
34	Standard Waterline Detail Sheet
35-36	Standard Waterline Technical Provisions
37-38	Storm Water Pollution Prevention Plan/Details

Index of Roadway Plans for Cone Road Infrastructure Improvements

<u>Sheet No.</u>	<u>Title</u>
1	Cover Sheet
2	General Notes/Summary of Pay Items/Restraint Chart
3	Drainage & Sewer Structure Schedules
4-13	Existing Conditions Plan
14-27	Plan & Profiles
28-30	Merritt Ridge Pond Connection Plan
31	Construction Sections
32-33	Dimension, Signage & Striping Plan
34-35	Construction Details
36-38	Sanitary Sewer Details
39	Brevard County Public Works Standard Engineering Development Notes
40	Maintenance of Traffic Details & Notes
41	Temporary Traffic Control Plan
42	Standard Waterline Detail Sheet
43-44	Standard Waterline Technical Provisions
45-46	Storm Water Pollution Prevention Plan/Details

9. AUDIT RIGHTS

- 9.1 In performance of this Contract, the Contractor shall keep books, records, and accounts of all activities related to this Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received

by the Contractor in conjunction with this Contract and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County. The Contractor shall retain all documents, books and records for a period of five (5) years after termination of this Contract, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the Contractor by the County in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Contractor shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Contract and following termination of the Contract if the Contractor does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Contract, the Contractor may transfer, at no cost to the County, all public records in possession of the Contractor. If the Contractor transfers all public records to the County upon termination of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

10. PUBLIC RECORDS

- 10.1 Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request and the Contractor must provide the records to the County or allow the records to be inspected or copied within twenty-four (4) hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Sections 119.07. The Contractor may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If the Contractor fails to provide the requested public records to the County within a reasonable time, the Contractor may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties.

Sections 119.0701, 119.110. The Contractor's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Contractor's possession and control, The Contractor agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Contractor shall hire and compensate attorney(s) to represent the Contractor and County in defending such action. The Contractor shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS:

ROBERT HENDRICKS at 321-617-7202 and
Robert.Hendricks@brevardfl.gov

11. ATTORNEY'S FEES

11.1 In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

12. UNAUTHORIZED ALIEN WORKERS

12.1 The County will not intentionally award publicly funded contracts to any Contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274(e) of the Immigration and Nationality Act (INA). The County shall consider the employment by the Contractor of unauthorized aliens a violation of Section 274(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274(e) of the INA shall be grounds for unilateral cancellation of this contract by the County.

12.2 The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the contract; and shall expressly require any Subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify

the employment eligibility of all new employees hired by the Subcontractor during the contract term.

13. VENUE

13.1 Venue for any legal action by any party to this contract to interpret, construe or enforce this contract, shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

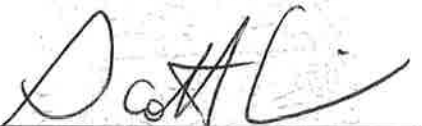
14. WAIVER OF JURY TRIAL

14.1 The parties acknowledge that by entering into this Agreement, they are giving up their rights to have any dispute decided before a jury. Any trial will be a non-jury trial.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first above written in three (3) counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original Contract.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA




Scott Ellis, Clerk
Brevard County, Florida



Rita Pritchett, Chair
As approved by the Board on: July 10, 2018

Reviewed for legal form and content:



Assistant County Attorney

Witnessed in the presence of:

DP DEVELOPMENT OF THE TREASURE
COAST, LLC



(Name/Title)
Andrea Caporal
ofc Manager





Daniel Petrillo, Managing Member