

Contract Number: 11HM-3E-09-21-02-024

Project Number: 1785-73-F

**MODIFICATION TO SUBGRANT AGREEMENT BETWEEN  
THE DIVISION OF EMERGENCY MANAGEMENT AND  
CITY OF NAPLES**

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This Modification Number One made and entered into by and between the State of Florida, Division of Emergency Management ("the Division"), and the City of Naples ("the Recipient") to modify Contract Number 11HM-3E-09-21-02-024, dated November 22, 2010, ("the Agreement").

WHEREAS, the Division and the Recipient have entered into the Agreement, pursuant to which the Division has provided a subgrant to the Recipient under the Hazard Mitigation Grant Program of \$33,688.00, in Federal Funds; and

WHEREAS, the Division and the Recipient desire to modify the Agreement; and

WHEREAS, the Agreement expired on September 8, 2013; and

WHEREAS, the Division and the Recipient desire to reinstate and extend the terms of the Agreement; and

WHEREAS, the Division and the Recipient desire to increase the Federal Funding under the Agreement by \$251,016.00.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

1. The Agreement is hereby reinstated and extended as though it had never expired.
2. Paragraph 3 of the Agreement is hereby amended to read as follows:

**(3) PERIOD OF PERFORMANCE**

This Agreement shall begin on September 8, 2010, and shall end January 31, 2015, unless terminated earlier in accordance with the provisions of paragraph (12) of this Agreement.

3. The Agreement is amended to increase the Federal Funding by \$251,016.00, for the maximum amount payable under the Agreement to \$284,704.00 (Two Hundred Eighty-Four Thousand, Seven Hundred and Four Dollars and No Cents).
4. This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder in an amount not to exceed \$284,704.00, subject to the availability of funds
5. The Budget and Scope of Work, Attachment A to the Agreement, are hereby modified as set forth in 1<sup>st</sup> Revised Attachment A to this Modification, a copy of which is attached hereto and incorporated herein by reference.

6. Paragraph 11 of the Agreement is hereby amended to read as follows:

**(11) REMEDIES**

If an Event of Default occurs, then the Division shall, after thirty calendar days written notice to the Recipient and upon the Recipient's failure to cure within those thirty days, exercise any one or more of the following remedies, either concurrently or consecutively:

- (a) Terminate this Agreement, provided that the Recipient is given at least thirty days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in Paragraph (13) herein;
  - (b) Begin an appropriate legal or equitable action to enforce performance of this Agreement;
  - (c) Withhold or suspend payment of all or any part of a request for payment;
  - (d) Require that the Recipient refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds;
  - (e) Exercise any corrective or remedial actions, to include but not limited to:
    - 1) Request additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance,
    - 2) Issue a written warning to advise that more serious measures may be taken if the situation is not corrected,
    - 3) Advise the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question, or
    - 4) Require the Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible.
  - (f) Exercise any other rights or remedies which may be available under law;
  - (g) Pursuing any of the above remedies will not stop the Division from pursuing any other remedies in this Agreement or provided at law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Recipient, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Recipient.
7. All provisions of the Agreement being modified and any attachments in conflict with this Modification shall be and are hereby changed to conform with this Modification, effective on the date of execution of this Modification by both parties.
8. All provisions not in conflict with this Modification remain in full force and effect, and are to be performed at the level specified in the Agreement.
9. Quarterly Reports are due to the Division no later than 15 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 31, June 30, September 30 and December 31.

IN WITNESS WHEREOF, the parties hereto have executed this Modification as of the dates set out below.

RECIPIENT: CITY OF NAPLES

By: *[Signature]*

Name and Title: John F. Surey III  
Mayor

Date: 1/21/15

Approved as to form and legality

By *[Signature]*  
**Robert D. Pritt, City Attorney**

STATE OF FLORIDA  
DIVISION OF EMERGENCY MANAGEMENT

By: *[Signature]*  
**Miles E. Anderson, for**

Name and Title: Bryan W. Koon, Director

Date: 1/28/2015

Attest:  
*[Signature]*  
**Patricia L. Rambosk, City Clerk**  
Date: 1/21/15

## **Attachment A**

**(1<sup>st</sup> Revision)**

### **Budget and Scope of Work**

#### **STATEMENT OF PURPOSE:**

The purpose of this Scope of Work is to provide protection by upgrading lift station panels in Naples, Florida; funded through the Hazard Mitigation Grant Program (HMGP) DR-1785-73-F, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA). The project shall upgrade the panels to remain functional during adverse weather and reduce vulnerability.

The City of Naples (Recipient) agrees to administer and complete the project per sealed engineering designs and plans as submitted by the Recipient and subsequently approved by the Division and FEMA. The Recipient will complete the work in accordance with all applicable Federal, State and Local Laws, Regulations, and Codes.

#### **PROJECT OVERVIEW:**

As a Hazard Mitigation Grant Program project, the Recipient, the City of Naples, shall keep sewer lift stations from overflowing and backing up the wastewater collection system for the critical lift stations at multiple sites within the City of Naples, Florida.

- 1) 1578 Gulf Shore Boulevard, North (Panel #031)
- 2) 801 River Point (Panel #051)
- 3) 4225 Gordon Drive (Panel #039)
- 4) 2900 Gordon Drive (Panel #041)
- 5) 3525 Fort Charles Drive (Panel #042)
- 6) 3275 Gin Lane Z(Panel #043)
- 7) 3975 Rum Row (Panel #044)
- 8) 3155 Rum Row Z(Panel #045)
- 9) 1070 Spy Glass Lane (Panel #046)
- 10) 1550 Galleon Drive (Panel #047)
- 11) 717 Galleon Drive (Panel #048)
- 12) 400 11<sup>th</sup> Street North, Carver Complex (Panel #002)
- 13) 1500 Curlew Drive (Panel #053)
- 14) 1490 Osprey Avenue (Panel #054)
- 15) 1480 Pelican Avenue (Panel #055)
- 16) 2160 Kingfish Road (Panels# 057)
- 17) 2423 Tarpon Drive (Panel #058)
- 18) 2140 Snook Drive (Panel #059)
- 19) 2060 Sheepshead Drive (Panel #060)
- 20) 2215 Sandpiper Street (Panel #061)
- 21) Sandpiper & Osprey z(Panel #062)
- 22) 1472 Golden Gate Parkway (Panel #070)
- 23) Wellesly Inn 1555 5<sup>th</sup> Avenue South, Davis & U.S. 41 (Panel #106)

The project shall upgrade the entire Sewer Lift Stations Control Panels, which shall provide a much safer environment to the public health and safety of employees near exposed wiring inside the sewer lift station panels during adverse weather. Specifically the project will entail upgrading the Sewer Lift Control Panels to include quick-connect generator hook-up receptacles used to connect the generators to the panels.

All installation and materials will be done in strict compliance with the National Electric Code specifications and Florida Building Code.

**TASKS & DELIVERABLES:**

**A. Tasks**

- 1) The Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the scope of work as approved by the Division and FEMA. The Recipient shall select the qualified, licensed Florida contractor in accordance with the Recipient's procurement policy as well as all federal and state laws and regulations. All procurement activities will contain sufficient source documentation and be in accordance with all applicable regulations.

The Recipient shall be responsible for furnishing or contracting all labor, materials, equipment, tools, transportation and supervision and for performing all work per sealed engineering designs and construction plans presented to the Division by the Recipient and subsequently approved by the Division and FEMA.

The Recipient and contractor shall be responsible for maintaining a safe and secure worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.

The Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects. The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed.

The Recipient shall provide documentation demonstrating the results of the procurement process. This will include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Recipient.

The Recipient shall provide copies of professional licenses for contractors selected to perform services. The Recipient shall provide a copy of a current and valid occupational license or business tax receipt issued for the type of services to be performed by selected contractor.

- 2) The Recipient shall monitor and manage the procurement and installation of all panels and protection products in accordance with the HMGP application and associated documentation as presented to the Division by the Recipient and subsequently approved by the Division and FEMA. The Recipient shall ensure that all applicable State, Local and Federal Laws and Regulations are followed and documented, as appropriate.

The Recipient shall upgrade the entire Panels, include quick-connect generator receptacle hook-ups to connect the generators to the panels during adverse weather.

The Recipient shall fully perform the approved project, as described in the application, in

accordance with the approved scope of work indicated herein, the estimate of costs indicated herein, the allocation of funds indicated herein, and all applicable terms and conditions. The Recipient shall not deviate from the approved project terms and conditions.

Construction activities shall be completed by a qualified and licensed Florida contractor. All construction activities shall be monitored by a qualified engineer. The Recipient shall complete the project in accordance with all required permits. All work shall be completed in accordance with applicable codes and standards.

Upon completion of the work, the Recipient shall schedule and participate in a final inspection of the completed project by the local municipal or county building department (official), or other approving official, as applicable. The official shall inspect and certify that all installations according to the manufacturer's specifications. Any deficiencies found during this final inspection shall be corrected by the Recipient prior to Recipient's submittal of the final inspection request to the Division.

Upon completion of Task 2, the Recipient shall submit a final copy of the project's as-built drawings and necessary supporting documentation, and shall provide a summary of all contract scope of work changes, if any. Additional documentation will include:

- a) Copy of the notice of commencement;
  - b) Local Building Official Inspection Report and Final Approval, if applicable;
  - c) Certified Letter of Completion from Engineer of Record: The Recipient's Engineer of Record shall provide a formal certificate or letter affirming that the project has been completed in conformance with the approved project drawings, specifications, and project "Requirements and Conditions";
  - d) All Product Specifications / Data Sheet(s) (technical standards) satisfying product requirements on all products utilized Photographs (color) of completed project sites;
  - e) All Project Conditions and Requirements contained herein.
- 3) During the course of this agreement the Recipient shall to submit requests for reimbursement. Adequate and complete source documentation is required to be submitted to support all costs (federal share and local share) related to the project. In some cases, all project activities may not be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Recipient shall to submit an Affidavit signed by the Recipient's project personnel with each reimbursement request attesting to the completion of the work, disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Recipient shall maintain accurate time records. The Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation must agree with the requested billing period. All costs submitted for reimbursement must contain adequate source documentation which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

Construction Expense: The Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors

for approved bills, invoices, and/or charges. Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the Division in coordination with the Recipient. Quarterly reports shall be submitted by the Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Recipient shall submit to the Division requests for reimbursement of actual construction and managerial costs related to the project as identified in the project application, sealed engineering designs, and construction plans. The requests for reimbursement will include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount;
- d) The Recipient's final request for reimbursement shall include the final construction project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

## **B. Deliverables**

Mitigation Activities consist of upgrading the Sewer Lift Control Panels to National Electrical Code, installation of quick-connect generator hook-up receptacles to connect the generators to the panels; providing a safer environment to the public health and safety of employees during adverse weather. The structure will be upgraded to meet the minimum Florida Building Code requirement

Provided the Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division will reimburse the Recipient based on the percentage of overall project completion.

## **CONDITIONS AND REQUIREMENTS:**

### **C. Performance Requirements**

- 1) All installations will be done in strict compliance with the Florida Building Code Specifications. All materials will be certified to meet the standards of the current local codes. The local municipal or county building department will inspect the installation according to the manufacturer's specification, and ensure that the above referenced standards have been met.
- 2) The recipient must follow all applicable state, local and federal laws regulations and

requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding. If project work is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies must be redone.

- 3) Any change, addition or supplement to the approved mitigation measures or Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, will require re-submission of the application to FEMA through the Florida Division of Emergency Management (FDEM) for National Environmental Policy Act (NEPA) re-evaluation before starting project work.
- 4) If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State. The recipient, or other designee, should contact the Florida Department State, Division of Historical Resources, Review and Compliance Section at 850.245.6333 or 800.847.7278, as well as the FDEM and FEMA. Project activities should resume without verbal and/or written authorization for the Division of Historical Resources and FEMA. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, *Florida Statutes*.
- 5) Construction vehicles and equipment used for this project shall be maintained in good working order to minimize pollutant emissions.
- 6) The materials and work funded pursuant to this Subgrant Agreement are intended to decrease the vulnerability of the structure and are specifically not intended to provide for the safety of inhabitants before, during or after a natural manmade disaster.

**D. Programmatic:**

- 1) A change in the scope of work *MUST* be approved by the Division and FEMA in advance regardless of the budget implications.
- 2) The Recipient must notify the Division as soon as significant developments becomes known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 3) The Recipient must "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 4) Any extension of the Period of Performance must be submitted to FEMA, 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension must be in writing and submitted along with substantiation of new expiration date, and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.
- 5) The Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191. The Recipient must notify the Division as soon as significant developments becomes known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.



**E. Financial Consequences:**

- 1) If the Recipient fails to comply with any term of the award, the Division may take one or more of the following actions, as appropriate in the circumstances:
  - a) Temporarily withhold cash payments pending correction of the deficiency by the Recipient;
  - b) Disallow all or part of the cost of the activity or action not in compliance;
  - c) Wholly or partly suspend or terminate the current award for the Recipient's program;
  - d) Withhold further awards for the program; or
  - e) Take other remedies that may be legally available.

This is FEMA Project Number **1785-73-R**, is funded under HMGP-1785-DR-FL.

The project was awarded by FEMA on **September 8, 2010**; the Sub-grantee Agreement was executed on November 22, 2010; and the Period of Performance (POP) for this project shall end on **January 31, 2015**.

**SCHEDULE OF WORK**

Bidding:	4 Months
Permitting:	4 Months
Construction/Installation:	32 Months
Weather Delays	6 Months
Final Inspection	3 Months
Closeout:	3 Months
<b>Total Period of Performance:</b>	<b>52 Months</b>

**BUDGET**

**Line Item Budget\***

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Local Share</u>
Materials:	\$216,923.00	\$162,692.00	\$54,231.00
Labor:	\$162,682.00	\$122,012.00	\$40,670.00
<b>Totals:</b>	<b>\$379,605.00</b>	<b>\$284,704.00</b>	<b>\$94,901.00</b>

*\*Any line item amount in this Budget may be increased or decreased 10% or less without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

**Funding Summary**

Federal Share :	\$284,704.00	(75%)
Local Share:	\$94,901.00	(25%)
<b>Total Project Cost:**</b>	<b>\$379,605.00</b>	<b>(100%)</b>

*\*\*The project cost is inclusive of administrative cost.*