



Interoffice Memorandum

October 29, 2020

TO: Mayor Jerry L. Demings
and Board of County Commissioners

FROM: Joseph C. Kunkel, P. E., Director, Public Works Department

A handwritten signature in black ink, appearing to read "Joe Kunkel", written over the printed name of the sender.

CONTACT PERSON: Michael J. Drozeck, P. E., CFM, Manager
Stormwater Management Division

Handwritten initials "MD" in black ink, likely representing the contact person, Michael J. Drozeck.

PHONE NUMBER: (407) 836-7945

SUBJ: Modification Number Two of Subgrant Agreement for Orlo Vista
Neighborhood Drainage Project Phase 1

On February 26, 2019, the Board approved the Memorandum of Agreement between the State of Florida, Division of Emergency Management (FDEM) and Orange County for the Orlo Vista/Westside Manor (Phase I) design. The Federal funding share consisted of a \$919,766.25 with a local funding share of \$306,588.75. The Contract was executed on March 19, 2019.

On January 28, 2020, the Board approved the Memorandum of Modification Number One to Subgrant Agreement, to extend the completion date of the project from October 31, 2019 to June 30, 2020.

The County was informed by FDEM in July 2020, that in order to complete their project review, FDEM will need to complete an Environmental Assessment (EA). FDEM subsequently conducted a coordination meeting with the County to discuss the details of the process and the timeline needed to complete the EA. FDEM indicated that the assessment would be complete by March 2021, and therefore the County requested FDEM to extend the completion date of the project from June 30, 2020 to April 30, 2021, which was accepted by FDEM on September 25, 2020.

Staff recommends the Board approve the Modification Number Two that extends the timeline to April 30, 2021. The County Attorney's Office has reviewed the Modification Subgrant Agreement and found it acceptable.

Action Requested: Approval and execution of Modification Number Two and entered into by and between the State of Florida, Division of Emergency Management and Orange County Contract Number: H0121, Project Number: 4337-23-R to extend the project completion date from June 30, 2020 to April 30, 2021. District 6.

JCK/MD/mh

BCC Mtg. Date: November 10, 2020

Contract Number: H0121

Project Number: 4337-23-R

**MODIFICATION TO SUBGRANT AGREEMENT BETWEEN
THE DIVISION OF EMERGENCY MANAGEMENT AND
ORANGE COUNTY**

This Modification Number Two made and entered into by and between the State of Florida, Division of Emergency Management ("the Division"), and Orange County ("the Sub-Recipient") to modify Contract Number H0121, dated, March 20, 2019 ("the Agreement")

WHEREAS, the Division and the Sub-Recipient have entered into the Agreement, pursuant to which the Division has provided a subgrant to the Sub-Recipient under the Hazard Mitigation Grant Program of \$919,766.25, in Federal Funds; and

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

WHEREAS, the Agreement expired on June 30, 2020; and

WHEREAS, the Division and the Sub-Recipient desire to reinstate and extend the terms of the Agreement.

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 8 of the Agreement is hereby amended to read as follows:

(8) PERIOD OF AGREEMENT

This Agreement shall begin March 20, 2019 and shall end April 30, 2021, unless terminated earlier in accordance with the provisions of Paragraph (17) of this Agreement.

3. The Budget and Scope of Work, Attachment A to the Agreement, are hereby modified as set forth in 2nd Revision Attachment A to this Modification, a copy of which is attached hereto and incorporated herein by reference.
4. 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.
5. 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.

6. 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.

SUB-RECIPIENT: ORANGE COUNTY

By: Bruce W. Brooks

Name and Title: Bruce W. Brooks County Administrator

Date: November 10, 2020



STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: Miles E. Anderson

Digitally signed by Miles E. Anderson
DN: cn=Miles E. Anderson, o=DEM, ou=Mitigation,
email=Miles.anderson@em.myflorida.com, c=US
Date: 2021.03.05 14:39:09 -05'00'

Name and Title: Jared Moskowitz, Director

Date: 03/05/2021

Attachment A
(2nd Revision)
Budget and Scope of Work

STATEMENT OF PURPOSE:

The purpose of this Scope of Work is to improve drainage in the Orlo Vista Neighborhood in Orlando, Orange County, Florida, funded through the Hazard Mitigation Grant Program (HMGP) **DR-4337-23-R**, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Sub-Recipient, Orange County, shall conduct Phase I of this project, which includes the preliminary engineering designs and calculations, surveys, permitting, and notices. No construction activities are approved at this time. The Sub-Recipient shall complete the Phase I work in accordance with all applicable federal, state and local laws, regulations and codes.

PROJECT OVERVIEW:

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to improve the drainage of Orlo Vista Neighborhood, located in Orlando, Florida, 32811.

The scope is for Phase I only, which includes but is not limited to surveying, engineering, design, plans preparation, permitting and bidding for the proposed project, for Phase II approval. No construction activities for this project have been approved.

When completed, the Sub-Recipient shall provide deliverables for Phase II review of the following proposed activities.

The Phase II proposed scope of work shall include the design and construction of the following improvements; excavate five existing ponds down to 62 feet at a 4:1 slope, decommission the existing pump station and force main, install a new pump station with force main to Shingle Creek (where the current system outfall is located), and lower/install piped connections between ponds to help convey water to the proposed pump station. The completed work shall comply with all Federal, State, and Local Rules and Regulations. The proposed pump station intakes and controls will be designed to allow the pond normal water levels to remain the same as existing. The pumps will only drawdown the ponds prior to major rain events predicted to occur within 72 hours.

The project shall be designed to provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

Project Locations:

Location	Coordinates
Orlando, FL 32811	NE (28.548043, -81.451626)
	NW (28.548022, -81.457789)
	SE (28.537706, -81.451582)
	SW (28.537685, -81.457744)

TASKS & DELIVERABLES:

A) Tasks:

- 1) The Sub-Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the Phase I scope of work as approved by the Division and FEMA. The Sub-Recipient shall select the qualified, licensed Florida contractor in accordance with the Sub-Recipient's procurement policy as well as all federal and state laws and regulations.

All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

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

The Sub-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 Sub-Recipient shall provide documentation demonstrating the results of the procurement process. This shall 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 Sub-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 Sub-Recipient.

The Sub-Recipient shall provide copies of professional licenses for contractors selected to perform services. The Sub-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 the selected contractor.

- 2) The Sub-Recipient shall monitor and manage the Phase I portion of this project in accordance with the Hazard Mitigation Grant Program application and supporting documentation as submitted to the Division and subsequently approved by the Division and FEMA. The Division and FEMA shall render a Phase II determination upon completion of the review of Phase I deliverables. No construction activities are approved at this time. The Sub-Recipient shall ensure that all applicable state, local and federal laws and regulations are followed and documented, as appropriate.

Phase I consists of fees; for conducting survey, drainage study, engineering, design, public notices, and/or permitting associated with the modification(s) needed to upgrade the drainage. Verification of upstream and downstream impacts shall be necessary for determining project eligibility.

All Phase I work shall be completed in accordance with all applicable state, local and federal laws and regulations and documented, as appropriate.

Upon completion of Task 2, the Sub-Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary of all scope of work changes, if any.

- a) Two sets of engineering Signed/Sealed final design and analysis, surveying, and Hydrologic and Hydraulic (H&H) Studies;
- b) Construction Plans and bid documents;

- c) Revised cost estimate for Phase II – construction (include Phase I costs), to implement the design project;
 - d) Design documents shall provide a detailed description which includes specifics on project scope of work, depth and extent of ground disturbance at all construction locations of the project.
 - e) Color maps including topographical, aerial, and ground disturbance.
 - f) Color photographs of the project area and areas of ground disturbance.
 - g) Copy of all environmental permits or applications; any obtained from the Florida Department of Environmental Protection (FDEP), and/or local Water Management District (WMD) shall be required. Any conditions for compliance shall be included in the final design plans, narrative and project implementation actions.
 - h) Copy of the Florida Department of Transportation (FDOT) permit or No Permit Required notification, if applicable.
 - i) Copy of the United States Army Corps of Engineers (USACE) permit or No Permit Required notification.
 - j) Letter from the Floodplain manager verifying the project is in compliance with local floodplain ordinances/regulations.
 - k) Any other documentation requested by the Division, not limited to Project conditions and requirements herein.
- 3) During the course of this agreement, the Sub-Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall 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 Sub-Recipient shall submit an Affidavit signed by the Sub-Recipient's project personnel with each reimbursement request attesting to the completion of the work, that 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 Sub-Recipient shall maintain accurate time records. The Sub-Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall 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.

Direct Expenses: The Sub-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. Sub-Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

Project Management Expenses: The Sub-Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based

on payroll records. Employee benefits shall be clearly shown.

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 Sub-Recipient.

Quarterly reports shall be submitted by the Sub-Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Sub-Recipient shall submit to the Division requests for reimbursement of actual Phase I costs related to the project as identified in the project application and this scope of work. The Requests for Reimbursement (RFR) shall 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 Sub-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.

The Sub-Recipient's Request for Reimbursement shall include the final Phase I project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

B) Deliverables:

Mitigation Activities consist of Phase I activities, which include engineering, designing, plans preparation, permitting and bidding for the proposed project, for Phase II approval, and to implement measures to improve the drainage of Orlo Vista Neighborhood, located in Orlando, Florida, 32811.

The project shall be designed to provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

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

PROJECT CONDITIONS AND REQUIREMENTS:

C) Engineering:

- 1) The Sub-Recipient shall submit signed and sealed Engineering plans that clearly show the engineer's estimate of the pre and post-mitigation effects of the proposed project and the relationship of the damages to be mitigated (commensurate with the level of funding requested). The H&H study shall contain at least 3 scenarios, where one represents the level of protection; under each scenario, the Sub-Recipient must identify the losses before

and after mitigation (structural, content, displacement, road closure duration, or any other needed to show the improvements after the mitigation project is implemented). This includes, but is not limited to, the existing and proposed hydrology and hydraulics for the level of event being mitigated.

- 2) Demonstrate mitigation effectiveness, in part, by showing the physical location(s) and elevation(s) of the infrastructure/structures that are being damaged and FEMA Special Flood Hazard Areas on the same plan.
- 3) Submit a refined cost estimate, to include final Phase I Fees and Phase II Construction Materials and Labor.

D) Environmental:

- 1) Any change to the approved scope of work shall require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- 2) Acceptance of federal funding requires the Sub-Recipient to comply with all federal, state, and local laws. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding.
- 3) Consultation with the Floodplain manager is required to ensure the project is in compliance with local floodplain ordinances/regulations.
- 4) Meet all required Environmental laws and policies, and all necessary Environmental compliance documents shall be obtained as applicable.
 - a) United States Army Corps of Engineers (USACE): Consultation with the USACE is required. A permit or No Permit Required shall be submitted.
 - b) Florida Department of Transportation (FDOT): Any onsite/offsite improvements associated with proposed project activities that impact FDOT right-of-way shall require the appropriate FDOT permit(s). FDOT Permit Coordinator shall be contacted once finalized plans are available.
 - c) Copy of all environmental permits or applications; any obtained from the Florida Department of Environmental Protection (FDEP), and/or local Water Management District (WDM) shall be submitted. Any conditions for compliance shall be included in the final design plans, narrative, and project implementation actions.
- 5) Historical Preservation compliance documents shall be obtained. Review documentation required:
 - a) Color maps including topographical and aerial with the project location clearly marked
 - b) Color photographs of any area with ground disturbance (electronic)
 - c) Indicate if project site is located within a designated historic district or historic neighborhood.
- 6) Tribal Consultation shall be required for proposed ground disturbing activities. Following documents shall be required and submitted as part of deliverables:
 - a) Color ground disturbance maps showing the full extent of the project footprint and depth of ground disturbance. Geographic latitude/longitude (decimal degree format) of the proposed construction areas and staging areas;
 - b) Previous and current use of proposed project area;
 - c) Any known site work or historic uses for the proposed location;

- d) Any available studies that may have taken place on the property.
- 7) Phase I of this project is approved with the condition that the above list of deliverables shall be submitted for review and approval by the Division and FEMA before Phase II is considered.
- 8) No construction work may begin until Phase II is approved by the Division and FEMA.

E) 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 Sub-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 Sub-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) Phase I – Design of this project is approved with the condition that the enclosed list of deliverables shall be submitted, 30-days prior to the Period of Performance date, for review and approval by the Division; for submittal to FEMA before Phase II – Construction is considered.
 - a) Contact Manager / Administrator for verification of project being in compliance with all Floodplain Management regulations and ordinances.
 - b) Copies of any applicable permits – If permits are not available, please submit copies of application packets that were submitted to permitting agencies.
 - c) Final H&H study, if applicable.
 - d) An Alternative Analysis.
 - e) Public Notice.
 - f) Color Photos.
 - g) Required Maps.
- 5) Any extension of the Period of Performance shall be submitted to FEMA, 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall 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.
- 6) A copy of the executed subcontract agreement must be forwarded to the Division within 10 days of execution.
- 7) The Sub-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.
- 8) Special Conditions

Executive Order 11988 CONDITION: Phase II will require public notice, an alternative analysis, coordination with the Floodplain Manager, and H&H study.

Executive Order 11990 CONDITION: Phase II will require coordination with the USACE. Permitting may be required.

Clean Water Act CONDITION: Phase II will require applicable permitting.

This is FEMA project number **4337-23-R**. It is funded under HMGP, FEMA-4337-DR-FL and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster 4337.

FEMA awarded this project on October 26, 2018; with a Pre-Award date of August 15, 2018; this Agreement was executed on March 20, 2019, and the Period of Performance for this project shall end on **April 30, 2021**.

F) FINANCIAL CONSEQUENCES:

If the Sub-Recipient fails to comply with any term of the award, the Division shall take one or more of the following actions, as appropriate in the circumstances:

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;
- 2) Disallow all or part of the cost of the activity or action not in compliance;
- 3) Wholly or partly suspend or terminate the current award for the Sub-Recipient's program;
- 4) Withhold further awards for the program; or
- 5) Take other remedies that may be legally available.

Schedule of Work

Phase I –

State/Local Contracting:	3 Months
Bidding / Local Procurement:	3 Months
Design Specifications:	15 Months
Permitting / Survey:	6 Months
Deliverables Submitted to FDEM:	3 Months
Total Period of Performance:	30 Months

BUDGET

Line Item Budget*

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Non-Federal Share</u>
Materials:	\$0.00	\$0.00	\$0.00
Labor:	\$0.00	\$0.00	\$0.00
Fees:	\$0.00	\$0.00	\$0.00
Pre-Award:	\$1,226,355.00	\$919,766.25	\$306,588.75
Initial Agreement			
Amount:	\$1,226,355.00	\$919,766.25	\$306,588.75
***Contingency Funds:	\$0.00	\$0.00	\$0.00
Project Total:	\$1,226,355.00	\$919,766.25	\$306,588.75

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

*This project has a Pre-Award, approved by FEMA in the amount of \$1,226,355.00 project costs with a start date of **August 15, 2018**.*

**** This project has an estimated \$0.00 in contingency funds. Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.*

Project Management costs are included for this project in the amount of \$0.00

Funding Summary

Federal Share:	\$919,766.25	(75.00%)
Non-Federal Share:	\$306,588.75	(25.00%)
Total Project Cost:	\$1,226,355.00	(100.00%)