

Contract Number: 14HM-1F-11-54-02-453

Project Number: 4084-06-R

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

This Modification Number One is made and entered into by and between the State of Florida, Division of Emergency Management ("the Division"), and the City of Key West ("the Recipient") to modify Contract Number: 14HM-1F-11-54-02-453, dated April 14, 2014 ("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 \$12,109.00, in Federal Funds; and

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

WHEREAS, the Division and the Recipient desire to modify the Budget and Scope of Work by increasing the Federal funding by \$71,979.00 under the Agreement.

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

1. The Agreement is amended to increase the Federal Funding by \$71,979.00, for the maximum amount payable under the Agreement to \$84,088.00, (Eighty Four Thousand, Eighty Eight Dollars and No Cents).
2. The Budget and Scope of Work, Attachment A to the Agreement, are hereby modified as set forth in 1st Revised Attachment A to this Modification, a copy of which is attached hereto and incorporated herein by reference.
3. 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.
4. 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.
5. 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 KEY WEST

By: _____

Name and Title: _____

Date: _____

**STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT**

By: _____

Name and Title: Bryan W. Koon, Director

Date: _____

Attachment A Budget and Scope of Work

Statement of purpose

The purpose of this scope of work is to implement Phase I for the City of Key West, Simonton Street Emergency Outfall Drainage Project, Key West, Florida 33040 funded through the Hazard Mitigation Grant Program (HMGP), as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA). The recipient, City of Key West, shall conduct Phase I of this project which includes the preliminary engineering designs and calculations. No construction activities are approved at this time.

The project Phase I design will implement measures to construct a new emergency storm water outfall at the existing storm water pump station that would only be activated when businesses are threatened with flooding and as a public safety measures. The storm water would pass existing trash guards and vortex separating units to possible pollutants. It will allow the existing stormwater pump station to pump a far greater amount of storm-water than it usually does. The design will also include an elevated emergency generator with enclosure that would be constructed so that the facility can remain operational during power outages. When completed, the project will be designed to provide 100-year protection.

The recipient shall complete the Phase I work in accordance with all applicable federal, state and local laws, regulations and codes. All Phase I activities and deliverables must be completed and submitted to the Division on or before October 16, 2014.

Tasks

Task 1

The recipient shall procure the services of a qualified and Florida licensed professional(s) and execute a contract with the selected bidder to complete the Phase I scope of work as approved by the Division and FEMA. The recipient shall select the qualified, Florida licensed professional(s) in accordance with the recipient's procurement policy.

All procurement activities will contain sufficient source documentation and be in accordance with all applicable federal and state laws and regulations.

The recipient shall ensure that no selected 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.

Task 2

The recipient, City of Key West 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 by the Recipient and subsequently approved by the Division and FEMA. The Division and FEMA will render a Phase II determination upon completion of the review of Phase I deliverables. No construction activities are approved at this time.

Phase I consists of conducting a survey, drainage study, engineering, design and permitting associated with the modification(s) needed to upgrade Emergency Outfall at the existing stormwater pump station that would pass through existing trash guards and vortex separating units to restrict possible pollutants. The specific location of the Phase I drainage project would begin at latitude and longitude 24.561639, -81.805358 Northern most end of Simonton Street, Simonton Beach, Key West, FL 33040.

The project will be designed to provide protection for 100-years. All Phase I work will be completed in accordance with all applicable state, local and federal laws and regulations and documented, as appropriate. Verification of upstream and downstream impacts will be necessary for determining project eligibility.

If any work will be conducted in the water, due to the proximity to the water and potential for listed species and protected areas/sanctuaries in the project area, the recipient must contact the South Florida Water Management District (SFWMD), the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), and the Florida Fish and Wildlife Conservation Commission (FFWCC) for scoping assistance. Any conditions imposed by the SFWMD, USACE, UFSWS or FFWCC should be included in the final design plans, narrative and project implementation actions.

If any work will be conducted in the water, the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) Endangered Species Act Section 7 Checklist must be completed in full. If a USACE permit is required, a copy of the checklist will need to be sent the USACE for coordination purposes with NOAA. The recipient must coordinate with the USACE to assure the agency receives the complete checklist.

If there is any work near wetlands, coordination with U.S Army Corps of Engineers (USACE) will be required.

Notify the public of the intent to locate the proposed action in the floodplain or/and wetland. The notice must be published at least once in a local newspaper of general circulation. The public must be given at least fifteen days to comment. The recipient must meet federal requirements of notification.

Task 3

During the course of this agreement, the recipient is required 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 is required to submit an Affidavit signed by the recipient's project personnel or other authorized 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 must maintain accurate time records. The recipient must 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 documents.

Direct Expenses: The recipient will 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 will 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 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 must be clearly shown.

The Division will review all submitted requests for reimbursement for basic accuracy of information. Further, the Division will ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division will 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, will be conducted by the Division in coordination with the recipient. Quarterly reports must be submitted by the recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

Deliverables

Deliverable 1

The recipient will 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 bid tabulation.

The recipient will 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 subcontractors will be provided to the Division by the recipient.

The recipient will 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.

Deliverable 2

Upon completion of Task 2, the recipient will submit a final copy of the below documents and any necessary supporting documentation.

1. Two (2) sets of engineering signed/sealed final design & analysis, surveying, and

- Hydrologic and Hydraulic (H&H) Studies;
2. Construction plans and Phase 1 bid documents;
 3. Cost estimates to implement the designed project;
 4. All necessary Environmental and Historic Preservation compliance documents, as applicable;
 - a. If any work is conducted in the water, a copy of the response letters from the USFWS and FFWCC regarding the scoping assistance must be provided. If no response is given, a copy of the request for assistance and shipping label is required.
 - b. If any work is conducted in the water a copy of the completed NOAA Checklist shall be provided.
 - c. If work will not be conducted in the water, a certifying statement from the engineer that work will not be conducted in the water is required.
 - d. Copy of USACE permits/authorizations issued if there is any work in the water or near wetlands.
 - e. Copy of permits/authorization or no permit required (NPR) shall be required from the South Florida Water Management District (SFWMD). Any conditions for compliance shall be included in the final design plans, narrative and project implementation actions.
 - f. Design documents should 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.
 - g. Color maps including topographical, aerial and existing vs. new location maps must be provided with the project location and staging areas clearly marked on each map. Color project maps that show the full extent of the project footprint and dept of ground disturbance must be provided.
 - h. Provide built-dates of surrounding structures.
 - i. Copy of Public Notice including a copy of the publication and affidavit. Public comments, if any, and how they comments were addressed must be provided.
 5. Any other documentation requested by the Division.

Deliverable 3

The 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 will include:

1. 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.
2. Proof of payment from the recipient to the contractor, subcontractor, and/or vendor for invoiced services.
3. Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount.

The recipient's final request for reimbursement should include the final Phase I project cost. Supporting documentation must show that all contractors and subcontractors have been paid.

Project Conditions:

1. 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.

2. Any change, addition or supplement to the approved 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.
3. If ground disturbing activities occur during construction, the recipient will monitor ground disturbance. In the event of an unexpected discovery involving an undertaking that has affected a previously unidentified historic property, human remains, or affected a known historic property in an unanticipated manner, the recipient should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries and take all reasonable measures to avoid or minimize harm to the property. 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 not resume without verbal and/or written authorization from 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*.
4. 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.
5. 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.
6. Any extension of the period of performance must be submitted to FEMA 60 days prior to the expiration date. Request must be in writing and submitted along with substantiation of new date, and a new schedule of work, to the Division a minimum of ten (10) working days for processing.
7. 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 clarified in 44 CFR 206.191.

Financial Consequences

If the City of Key West 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 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 recipient's project;

4. Withhold further awards; or
5. Take other remedies that may be legally available.

This is FEMA project number **4084-06-R**, funded under HMGP-4084-DR-FL.

The project began on **June 06, 2013** (with approved Pre-Award services) and the Period of Performance (POP) for Phase I ends **October 16, 2014**.

Schedule of Work:

State Contracting Process:	6	Months
Preliminary & Final Design:	2	Months
Permitting:	2	Months
<u>Phase 1 bidding process:</u>	<u>2</u>	<u>Months</u>
Total Phase 1 Period of Performance:	12	Months

Line Item Budget*

	<u>Project Cost</u>	<u>Federal Share</u>	<u>Local Share</u>
Pre-Award Cost**	\$7,341.00	\$5,506.00	\$1,835.00
<u>Phase 1: Engineering, Design & Surveys:</u>	<u>\$104,776.00</u>	<u>\$78,582.00</u>	<u>\$26,194.00</u>
Total Phase 1 Cost:	\$112,117.00	\$84,088.00	\$28,029.00

**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.*

***Pre-Award cost in the amount of \$7,341.00 incurred by the subgrantee with a commencement date of June 06, 2013 is approved.*

Funding Summary

Federal Share:	\$84,088.00	75%
<u>Local Share:</u>	<u>\$28,029.00</u>	<u>25%</u>
Total Project Cost:	\$112,117.00	100%