

**AMENDMENT #12 TO CONTRACT NO. 2012000050
AGREEMENT BETWEEN CHARLOTTE COUNTY
and
COASTAL ENGINEERING CONSULTANTS, INC.
for
STUMP PASS 10 YEAR MANAGEMENT PLAN**

THIS AMENDMENT #12 to Contract 2012000050 (the "Contract") is made by and between CHARLOTTE COUNTY, a political subdivision of the State of Florida, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094 ("County"), and COASTAL ENGINEERING CONSULTANTS, INC., 28421 Bonita Crossings Boulevard, Bonita Springs, Florida 34135 ("Consultant").

WHEREAS, pursuant to RFP No. 2012000050 and a selection and negotiation process conducted in accordance with the requirements of law and County policy, the County determined that it would be in the best interest of the County to award a contract to Consultant for the rendering of professional services associated with a ten-year beach and inlet management plan to include alternative analysis, design, permitting, construction support and monitoring (the "Project"); and

WHEREAS, the parties entered into Contract No. 2012000050 on April 23, 2012 for the beach and inlet management plan Project; and

WHEREAS, the Contract has been amended on eleven prior occasions to add additional services relating to surveys, design, construction administration, restoration oversight, and physical and biological monitoring; and

WHEREAS, the Consultant has been providing, and is capable of continuing to provide the necessary Project services; and

WHEREAS, on November 10, 2022, Hurricane Nicole, a Category 1 Hurricane, made landfall along the Southeast Florida Coast and traversed the state, affecting Southwest Florida and causing damage; and

WHEREAS, Hurricane Nicole created emergency conditions causing a threat to life, public health and safety and property throughout Charlotte County, including along its shoreline; and

WHEREAS, in the period immediately following Nicole's landfall, there is a need to assess dangerous conditions to prevent or alleviate serious harm or injury, or financial or other loss, to the shorelines of Charlotte County, and the use of competitive procurements would prevent the urgent action required to address dangerous conditions; and

WHEREAS, the Consultant is imminently familiar with, and is in the best position to assess, beach and shoreline conditions and any dangerous conditions, to assist Charlotte County in conducting a post-Nicole survey of certain coastline areas, and to address emergency or exigency needs associated with Hurricane Nicole; and

WHEREAS, the County has determined that sole-sourcing is necessary based on the specific conditions and circumstances and is appropriate based on the specific expertise of the Consultant and its ability to provide timely services; and

WHEREAS, the parties now wish to amend the Contract to include additional services specific to post-Nicole surveys of certain beach and coastline areas and to provide engineering analyses, reporting and technical assistance to address emergency or exigent conditions and to support post-storm recovery.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the County and Consultant amend Contract No. 2012000050 as follows:

1. The effective date of this Amendment #12 is the date upon which this Amendment is signed by both parties.
2. The provisions of this Amendment #12, and **Exhibits A and B**, attached to it, are specifically incorporated into, and made a part of, the Contract.
3. This Amendment consists of the additional services which Consultant agrees to perform in accordance with the terms in this Amendment #12 and **Exhibit A**.
4. The County agrees to pay an amount not to exceed Forty-Four Thousand Four Hundred Dollars and no cents (\$44,400.00) for the additional services that are the subject of this Amendment, as set forth in **Exhibit A**.
5. Consultant agrees that, during the performance of services as provided in this Amendment #12, it will comply with all provisions of **Exhibit B**, Federal Provisions, as may be applicable to the Consultant.
6. The services provided for in **Exhibit A** will run concurrently with the 10-year Management Plan and will not affect the term of the Contract.
7. All other provisions of the Contract not in conflict with this Amendment #12 shall remain in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Amendment #12 as of the date and year written below.

WITNESSES:

Signed By: *Tim Davis*
Print Name: Tim Davis
Date: 2/8/23

COASTAL ENGINEERING CONSULTANTS,
INC.

By: *[Signature]*
Print Name: NICKELTARE
Title: PRESIDENT
Date: 2-8-23

ATTEST:

Roger D. Eaton, Clerk of the Circuit
Court and Ex-Officio Clerk to the
Board of County Commissioners

By: *[Signature]*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: *[Signature]*
Hector Flores
County Administrator
Date: 2/6/23

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *[Signature]*
Janette S. Knowlton, County Attorney
LR23-0172 *[Signature]* (LT)

Attachments:

Exhibit A – Post Nicole Survey, Recovery and Public Assistance Stump Pass Project
Exhibit B – Federal Provisions Applicable to Contractors and Consultants

EXHIBIT A

Post-Nicole Survey, Recovery and Public Assistance Charlotte County Erosion Control Project

CEC File No. 22.282

December 21, 2022

INTRODUCTION

The scope of services presented herein is designed for Coastal Engineering Consultants, Inc. (CEC) to assist Charlotte County perform post-storm survey and provide engineering analyses, reporting, and technical assistance in support of a request to FEMA for post-storm recovery assistance to address impacts from Hurricane Nicole on the Updrift Beach Fill (UBF), North Beach (NBF), South Beach Fill (SBF) and Stump Pass Navigation Channel (SPNC) which comprise the Erosion Control Project (ECP). The scope and fee is a companion proposal to the Post-Nicole Recovery and Public Assistance proposal for the Manasota Key Project. When proposals overlap, the budget is shared between the two projects.

SCOPE OF SERVICES

TASK 9. ECP POST-NICOLE SURVEY

9A. Erosion Control Project (ECP): Updrift Beach Fill (UBF) through North Beach Fill (NBF)

Conduct post-Nicole survey of the FDEP reference monuments R-16 through R-28 and nine (9) supplemental lines at intermediate stations. From Stations 0+00 to 40+00, conduct post-Nicole condition survey of the SPNC. Bathymetric survey shall be conducted along each cross-section at 100-foot intervals and shall locate deepest water within the inlet system.

9B. ECP: South Beach Fill (SBF)

Conduct post-Nicole survey of the FDEP reference monuments R-29 through R-40.

The profile alignments shall be identical to the azimuths previously established for each monument. All R-monument beach profiles shall extend seaward 3,000 feet from the Mean High Water (MHW) or to a depth of -30 feet NAVD88, whichever is less, with the exception of R-22 to R-28 which shall be 5,000 feet from MHW to cover the shoal.

Utilizing the available historic survey data and the post-storm data, compute:

- 1) background erosion
- 2) erosion between the last available historic survey and post-storm survey
- 3) storm related erosion

TASK 10: ECP HURRICANE NICOLE REPORT

Prepare the post-Nicole damage assessment report for ECP. Scope for the Report includes the following:

- Project Location
- Project History and Performance
- Engineering Design Summary
- Environmental Permit and Compliance History
- Details of Project Construction
- Hurricane Nicole Storm Impact Assessment
- Details of Construction Methods to Reconstruct the Project as Designed
- Outline of Permits and Regulatory Authorities that will be required to Reconstruct the Project
- Drawings depicting pre-construction, progress or as-built, and post-storm conditions
- Opinion of Probable Construction Cost to Reconstruct the Project as Designed.

TASK 11. ECP HURRICANE NICOLE TECHNICAL SUPPORT

Provide technical assistance in support of a request to FEMA for post-storm recovery assistance to address impacts from Hurricane Nicole on the ECP. Scope for technical assistance includes the following. Assist County in responding to two (2) requests for additional information from FEMA. Prepare and participate in two (2) virtual meetings as requested by the County. It is anticipated that a FEMA Representative will want to view the Project. This task also includes a site visit with the FEMA Representative to review damages the Project.

PROFESSIONAL FEES

Presented below are the fees for services. Payment for services shall be made on a monthly basis on a percent complete basis. Fees for individual tasks shall not be exceeded.

TASK	DESCRIPTION	AMOUNT	BASIS
9	ECP Post Nicole Survey		Fixed Fee
9A	ECP:UBF/NBF/SPNC	\$22,200	
9B	ECP:SBF	\$9,000	
10	ECP Hurricane Nicole Report	\$7,700	Fixed Fee
11	ECP Hurricane Nicole Technical Support	\$5,500	Time and Materials
	Total	\$44,400	

EXHIBIT B

FEDERAL PROVISIONS APPLICABLE TO CONTRACTORS AND CONSULTANTS

The projects, programs, and activities to be funded under this Agreement are fully or partially funded by Federal funding, grants and disaster assistance from various federal and state agencies including the Florida Division of Emergency Management (FDEM) and the Federal Emergency Management Agency (FEMA). Therefore, consultants, contractors and their subcontractors (hereinafter referred to as "Contractor") will be required to comply with the following provisions, **as applicable**. The Contractor shall require compliance with all applicable federal requirements listed below of all subcontractors performing work the value of which is in excess of \$10,000, by including these federal requirements in all contracts with subcontractors.

Title VI List of Pertinent Nondiscrimination Acts and Authorities.

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, as applicable, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage

and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Subcontractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

ADDITIONAL FEDERAL REQUIREMENTS

To the extent applicable to the services and/or goods provided under this Agreement, Contractor and any of its subcontractors used as part of this Agreement, expressly agree to adhere to the following provisions, as required:

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Activities Abroad. Contractor agrees that with regard to activities undertaken pursuant to this Agreement, such activities carried on outside the United States are coordinated as necessary with appropriate government authorities and the appropriate licenses, permits, or approvals are obtained.

Controlled Substances. Contractor agrees that it shall not knowingly use funds provided under this Agreement to support activities that promote the legalization of any drug or other substance included in Schedule I of the schedule of controlled substances established by section 202 of the Controlled Substances Act, 21 U.S.C. 812.

Human Rights. Contractor assures that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services or habilitation under programs assisted under this title, will be protected consistent with P.L. 88-164, Title I, s. 110, as amended, 42 U.S.C. s. 6009, the federal Developmental Disabilities Assistance and Bill of Rights Act, and s. 393.13, Fla. Stat., Florida's Bill of Rights of Persons with Developmental Disabilities.

Restrictions on Abortion and on Distribution of Sterile Needles. Contractor agrees that it shall not use funds provided under this Agreement for an abortion. Further, Contractor agrees that funds shall not be used to carry out any program of distributing sterile needles or syringes for hypodermic injection of any illegal drug.

U.S. Flag Air Carrier. Contractor agrees that as it pertains to the services provided under this Agreement, U.S. flag air carriers shall be used to the maximum extent possible when commercial air transportation is the means of travel between the United States and a foreign country or between foreign countries.

U.S. Patriot Act; Public Health Security & Bioterrorism Preparedness & Response Act. Contractor will comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act) amending 18 U.S.C. 175-175c.; The Public Health Security and

Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 201.

Trafficking Victims Protection Act. Contractor will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits Contractor/consultant from (1) engaging in severe forms of trafficking in persons during the period of time that this Contractor Agreement is in effect; (2) procuring a commercial sex act during the period of time that this Contractor Agreement is in effect; or (3) using forced labor in the performance of the Contractor services under this Contractor Agreement. This Contractor Agreement may be unilaterally terminated immediately by County for Contractor's violating this provision, without penalty.

Gun Control – Consolidation Appropriations Act, 2017, Pub. L. 115-31, Section 217. None of the funds made available under this Contractor Agreement may be used in whole or in part to advocate or promote gun control.

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Contractor Agreement Act (33 U.S.C. 1251-1387) as amended. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

Procurement of Recovered Materials. Contractor and any subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this Agreement and to the extent practicable, the Contractor and subcontractor are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247.

Debarment and Suspension. This Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the

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Contractor's principals (defined at 2 C.F.R. s. 180.995) or its affiliates (defined at 2 C.F.R. s. 1180.905) are excluded (defined at 2 C.F.R. s. 180.940) or disqualified (defined at 2 C.F.R. s. 180.935). The Contractor must comply with 2 C.F.R. Part 1880, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by Charlotte County. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 1809, subpart C, and 2 C.F.R. Part 3000, subpart C, in addition to remedies made available to Charlotte County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transaction.

Equal Employment Opportunity (2 CFR Part 200, Appendix II(C); 41 CFR § 61-1.4; 41 CFR 61-4.3; Executive Order 11246). During the performance of this Agreement, the Contractor agrees as follows: (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause; (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color,

religion, sex, or national origin; (3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining Contractor Agreement or other Contractor Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment; (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor; (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.; (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contractor Agreement or with any of the said rules, regulations, or orders, this Contractor Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government Contractor Agreements or federally assisted construction Contractor Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.; (7) Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract Agreement or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any Contractor Agreement or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however,* that in the

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event a Contractor becomes involved in, or is threatened with, litigation with a Contractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Domestic Preference for Procurements. In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, to the greatest extent practicable when using federal funds for the services provided in this Agreement, Contractor shall provide a preference for the purchase, acquisition, or use of goods and products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

Prohibition on certain telecommunications and video surveillance services or equipment. In accordance with 2 CFR 200.216, Contractor and any subcontractors are prohibited to obligate or spend federal funds to: (1) procure or obtain, (2) extend or renew a Contractor Agreement to procure or obtain; or (3) enter into a Contractor Agreement to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). ii. Telecommunications or video surveillance services provided by such entities or using such equipment. iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an

entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

Enhanced Whistleblower Protections. The National Defense Authorization Act of 2013 extending whistleblower protections to Contractor employees may apply to the Federal grant award dollars involved with this Agreement.

Federal Funding Accountability and Transparency Act (FFATA). In accordance with FFATA, the Contractor shall, upon request, provide the County the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

Federal Awardee Performance and Integrity Information System (FAPIIS). The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of this Contractor Agreement, by posting the required information in the System for Award Management via <https://www.sam.gov>.

Sub Agreements/Assignments and W/MBE. Contractor shall not subcontract, nor assign this Agreement, or any part of the services provided under this Agreement, without prior written consent of County. In accordance with 45 CFR s. 75.330 and 2 CFR s. 200.321, Contractor acknowledges that if it subcontracts any work pertaining to this Agreement, it will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative Steps include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

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(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Davis-Bacon Act: For all construction contracts and other projects, if applicable, the Contractor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. §§ 3141-3144 and 3136-3148), and to require all of its subcontractors performing work under this Agreement to adhere to same. The Contractor and its subcontractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor and its subcontractors are required to pay wages not less than once a week. If the federally funded award contains Davis Bacon provisions, the Contractor shall place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation documents. The decision to award a contract shall be conditioned upon the acceptance of the wage determination. The Contractor shall report all suspected or reported violations of the Davis-Bacon Act to the County.

Copeland Anti Kick Back Act: Contractor and its subcontractors shall comply with all the requirements of the Copeland Anti-Kickback Act (18 U.S.C. § 874 and 40 U.S.C. § 3145, as supplemented by Department of Labor regulations at 29 CFR Part 3), which are incorporated by reference to this Agreement. Contractor and its subcontractors are prohibited from inducing by any means any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he or she is otherwise entitled. The contractor or subcontractors shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring

subcontractors to include these clauses in any lower tier contracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. s. 5.12.

Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708): Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Byrd Anti-Lobbying (31 U.S.C s. 1352, as amended).

Contractors who apply or bid for an award of more than \$100,000 shall file the required Anti-Lobbying certification at the time of bid. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. s. 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any

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federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the deferral awarding agency.

DHS Seal, Logo and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of the flags or likenesses of DHS agency officials without specific FEMA pre-approval. The contractor shall include this provision in any subcontracts.

Access to Records.

The Contractor agrees to provide Charlotte County and FDEM, the FEMA Administrator, the Controller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the agreement. IN compliance with section 1225 of the Disaster Recovery Reform Act of 2018, Charlotte County and the Contractor acknowledge and agree that no language in this agreement is intended to prohibit audits or internal review by the FEMA Administrator or the Comptroller General of the United States.

Compliance with Federal Law, Regulations, and Executive Orders and Acknowledgement of Federal Funding.

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the agreement. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.

No Obligation by Federal Government.

The federal government is not a party to this agreement and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the agreement.

Program Fraud and False or Fraudulent Statements or Related Acts.

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

Copyright and Data Rights.

The Contractor grants to Charlotte County a paid-up royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this agreement to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the agreement but not first produced in the performance of this agreement, the Contractor will identify such data and grant to Charlotte County or acquire on its behalf a license of the same scope as for data first produced in the performance of this agreement.

Remedies.

Unless otherwise provided by the agreement, all claims, counter-claims, disputes and other matters in question between the County and the Contractor arising out of or relating to the agreement, or the breach of it, that cannot be resolved by and between the parties after conferring in good faith, will be decided by a court of competent jurisdiction pursuant to Florida law. If such dispute is in state court, venue shall be in the Twentieth Judicial Circuit Court in and for Charlotte County, Florida. If in federal court, venue shall be in the U.S. District Court for the Middle District of Florida, Ft. Myers Division.

Termination for Cause or Convenience.

The County may terminate the agreement at any time, for cause or convenience, by providing written notice to the Contractor, of determined by the County to be in the County's best interest. If the agreement is terminated, the Contractor shall be paid for all work actually performed, and all costs actually incurred prior to contract termination.

ENVIRONMENTAL COMPLIANCE

In performing under this Agreement, Contractor and its subcontractors, to the extent applicable, shall comply with all of the federal

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environmental statutes, regulations, and executive orders listed below, as applicable:

1. The National Environmental Policy Act (42 U.S.C. § 4321 et. seq.)

2. The Endangered Species Act (16 U.S.C. § 1531 et seq.)

3. Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)

4. Clean Water Act Section 404 (33 U.S.C. § 1344 et seq.)

5. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712); Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.), and Executive Order No. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds

6. National Historic Preservation Act (54 U.S.C. § 300101 et seq.) and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800)

7. Clean Air Act (42 U.S.C. § 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) (Clean Water Act), and Executive Order 11738 ("Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans"). Violations must be reported to the County and the Regional Office of the Environmental Protection Agency (EPA) immediately upon discovery.

8. The Flood Disaster Protection Act (42 U.S.C. § 4002 et seq.)

9. Executive Order 11988 ("Floodplain Management") and Executive Order 11990 ("Protection of Wetlands")

10. Executive Order 13112 ("Invasive Species")

11. The Coastal Zone Management Act (16 U.S.C. § 1451 et seq.)

12. The Coastal Barriers Resources Act (16 U.S.C. § 3501 et seq.)

13. The Wild and Scenic Rivers Act (16 U.S.C. § 1271 et seq.)

14. The Safe Drinking Water Act (42 U.S.C. § 300 et seq.)

15. The Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.)

16. The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. § 9601 et seq.)

17. Executive Order 12898 ("Environmental Justice in Minority Populations and Low Income Populations")

18. Rivers and Harbors Act (33 U.S.C. § 407)

19. Marine Protection, Research and Sanctuaries Act (Pub. L. 92-532, as amended), National Marine Sanctuaries Act (16 U.S.C. § 1431 et seq.), and Executive Order 13089 ("Coral Reef Protection")

20. Farmland Protection Policy Act (7 U.S.C. 4201 et seq.)

21. Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)

22. Pursuant to 2 CFR §200.322, Contractor and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines

BYRD ANTI-LOBBYING CERTIFICATION

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of an Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

2/8/2023
Date

Coastal Engineering Consultants, Inc.
Firm Name

Michael T. Loff
Type or Print Name

[Signature]
Signature

President
Title