

RESOLUTION NO. 2022- 111

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, CONDITIONS, PROVISIONS, AND REQUIREMENTS OF THE FIRST AMENDMENT TO AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND CONTINENTAL HEAVY CIVIL CORP REGARDING HURRICANE MATTHEW AND IRMA FEMA CAT B EMERGENCY BERM RESTORATION PROJECT; AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE FIRST AMENDMENT ON BEHALF OF ST. JOHNS COUNTY.

WHEREAS, St. Johns County, Florida and Continental Heavy Civil Corp have entered into that certain *Standard Form Agreement Between Owner and Design-Builder* (Document No. 530) dated July 1, 2021 ("Agreement"), as authorized by St. Johns County Resolution No. 2021-265, and

WHEREAS, both parties now desire to enter into an amendment to the Agreement, attached hereto as Exhibit A and incorporated herein by reference, to provide for a conditional extension of the contract times, subject to the grant by FEMA of a project time extension; and

WHEREAS, the County has determined that accepting the amendment will serve a public purpose and is in the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, as follows:

Section 1. The above Recitals are hereby incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

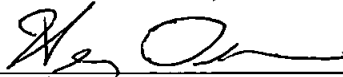
Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the First Amendment to Agreement Between St. Johns County, Florida and Continental Heavy Civil Corp ("First Amendment"), and authorizes the County Administrator, or designee, to execute the First Amendment on behalf of the County in substantially the same form and format as attached.

Section 4. If there are typographical or administrative errors or omissions that do not change the tone, tenor, or context of this resolution, this resolution may be revised without subsequent approval of the Board of County Commissioners.

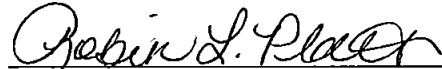
Section 5. This resolution shall be effective upon adoption by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 5th day of April, 2022.

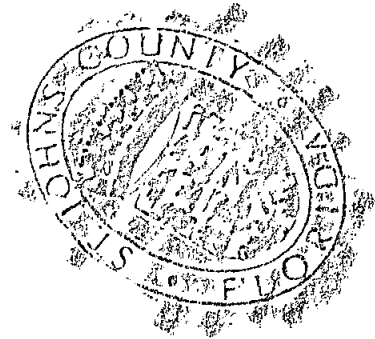
**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: 
Henry Dean, Chair

ATTEST: Brandon J Patty,
Clerk of the Circuit Court and Comptroller

By: 
Deputy Clerk

Rendition Date APR 5 2022



**FIRST AMENDMENT TO AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA
AND CONTINENTAL HEAVY CIVIL CORP**

This **FIRST AMENDMENT TO AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, and **CONTINENTAL HEAVY CIVIL CORP**, a Florida profit corporation ("First Amendment") is made and entered into as of the _____ day of March, 2022, ("Effective Date").

RECITALS:

WHEREAS, St. Johns County, Florida ("Owner") and Continental Heavy Civil Corp ("Design Builder"), have entered into that certain *Standard Form Agreement Between Owner and Design-Builder* (Document No. 530) dated July 1, 2021 ("Agreement"), and

WHEREAS, both parties now desire to amend the Agreement as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises, mutual covenants and promises hereinafter contained and other good and valuable consideration, the Owner and Design-Builder hereby agree as follows:

1. Amendments.

- a. Sections 5.2.1 is deleted in its entirety and replaced with the following: "Pursuant to Section 5.2.1, Design-Builder was originally required to obtain Substantial Completion of the entire Work no later than February 28, 2022 (the "Original Scheduled Substantial Completion Date"). On February 14, 2022, Owner requested a time extension for completion of the Work to FEMA and the Florida Division of Emergency Management. Understanding that it could take months or years prior to a decision by FEMA to grant or decline the requested time extension, Owner can only grant Design-Builder's request for an extension of the Original Scheduled Substantial Completion Date, on the condition that FEMA grant Owner's pending request for a time extension.

Therefore, Design-Builder is granted a conditional extension to achieve Substantial Completion of the entire Work by or before September 30, 2022 ("Scheduled Substantial Completion Date"), (unless otherwise modified and agreed to in the future by the Parties as permissible by additional extensions from FEMA). Should FEMA ultimately not grant the pending requested time extension, Design-Builder agrees that the conditional time extension for Substantial Completion noted in 5.2.1, as amended, shall be void and that the Scheduled Substantial Completion Date in Section 5.2.1 shall revert back to February 28, 2022. Should the date revert back, nothing in this First Amendment is intended to waive Design-Builder's right to assert the applicability of Article 8.2.1 of the Standard Form of General Conditions of Contract between Owner and Design-Builder to some or all of the time extension addressed in this First Amendment.

- b. Section 5.2.3 is deleted in its entirety and replaced with the following: "Pursuant to Section 5.2.3, Design-Builder was originally required to obtain Final Completion of the entire Work no later than March 31, 2022 (the "Original Scheduled Final Completion Date"). On February 14, 2022, Owner requested a time extension for

completion of the Work to FEMA and the Florida Division of Emergency Management. Understanding that it could take months or years prior to a decision by FEMA to grant or decline the requested time extension, Owner can only grant Design-Builder's request for an extension of the Original Final Scheduled Completion Date, on the condition that FEMA grant Owner's pending request for a time extension.

Therefore, Design-Builder is granted a conditional extension to achieve Final Completion of the entire Work by or before October 31, 2022 ("Scheduled Final Completion Date"), unless otherwise modified and agreed to in the future by the Parties as permissible by additional extensions from FEMA. Should FEMA ultimately not grant the pending requested time extension, Design-Builder agrees that the conditional time extension for Substantial Completion noted in 5.2.3, as amended, shall be void and that the Scheduled Final Completion Date in Section 5.2.3 shall revert back to March 31, 2022. Should the date revert back, nothing in this First Amendment is intended to waive Design-Builder's right to assert the applicability of Article 8.2.1 of the Standard Form of General Conditions of Contract between Owner and Design-Builder to some or all of the time extension addressed in this First Amendment.

- c. The first sentence of Section 6.2.1 of the Agreement is hereby deleted in its entirety and replaced with the following: "The Not-to Exceed Amount that shall be paid to the Design-Builder in exchange for satisfactory completion of the Project is an amount equal to Thirty Three Million Four Hundred Ninety Eight Thousand Eight Hundred Seventeen Dollars and Seventy Six Cents (33,498,817.76)."

2. Defined Terms. Unless otherwise defined in this Amendment, capitalized terms used in this Amendment will have the same meaning they do in the Agreement.

3. Agreement Effective. Except as specifically amended by this First Amendment, the Agreement shall continue in full force and effect in accordance with its terms.

4. Counterparts. This First Amendment may be executed in any number of identical counterparts, any and all of which may contain the signatures of fewer than all of the parties but all of which shall be taken together as a single instrument.

[Signatures Appear on Following Page]

