

RESOLUTION R-21-163

A RESOLUTION OF THE MANATEE COUNTY BOARD OF COMMISSIONERS AUTHORIZING THE SIGNING AND SUBMISSION OF A SETTLEMENT AGREEMENT BETWEEN FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MANATEE COUNTY PUBLIC WORKS DEPARTMENT

WHEREAS, due to a wastewater reservoir emergency at Piney Point, Manatee County, the Department was required to engage the Contractor to provide labor, equipment and materials in support of emergency operations critical to the Piney Point response; and the Manatee County Board of County Commissioners (BCC) has the authority to file and accept a Settlement Agreement with the Florida Department of Environmental Protection, due to by the Department of Transportation as authorized by Chapter 341, Florida Statutes and/or by the Federal Transit Administration Act of 1964, as amended; and

WHEREAS, the emergency operations were performed under Mission Numbers 00106 and 00069 via Emergency Final Order 21-0323.

WHEREAS, on June 16, 2021, the Department received from the Contractor Invoice no. FDEP-001, attached as Exhibit A, for the emergency services provided; and

WHEREAS, the Contractor has a colorable claim for payment for the said services, and the Department desires to settle and discharge such claim; and

WHEREAS, the Chief Financial Officer of the State of Florida Comptroller Memorandum No. 2 requires a settlement agreement be executed to settle the Contractor's claim.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. The Department agrees to submit to the Chief Financial Officer of the State of Florida for payment of twenty-four thousand, five-hundred and thirty-nine Dollars and fifty-five Cents, (\$24,539.55), to be processed in accordance with Section 215.422, Florida Statutes. This payment shall be considered full and complete satisfaction of any amounts or costs associated with work performed by the Contractor during the period of service from April 2, 2021 through April 9, 2021, as described on Invoice no. FDEP-001, and any claims and invoices associated therewith including interest, fees, and costs associated with the claim referenced herein.
2. Upon receipt of payment, as provided in paragraph (a), the Contractor, for itself, its attorneys, heirs, executors, administrators, successors and assigns, does hereby fully, finally and forever release and discharge the State of Florida Department of Environmental Protection and its agents, representatives, and attorneys, of and from all claims, demands, actions, causes of action, suits, damages, losses and expenses, of any and every nature whatsoever arising from any or all of the facts or circumstances which gave rise to this dispute including, but not limited to, claims that were or may be asserted in any federal, state or local agency or court, by or on behalf of the Contractor.

3. This Agreement shall be binding upon, and inures to the benefit of, the parties, their assigns, and their successors in interest.
4. This Agreement is contingent upon approval by the Chief Financial Officer of the State of Florida. Until such approval is received, the Department has no obligation to make any payments pursuant to this Agreement.
5. The Public Works Director or in his absence, the Public Works Deputy Director for Field Operations, is hereby authorized to sign and/or submit the agreement, unless specifically rescinded.

Duly Passed And Adopted, with a quorum present and voting, this 16th day of November, 2021.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____

Vanessa Baugh, Chairman

ATTEST: ANGELINA "ANGEL" COLONNESO
Clerk of the Circuit Court

By: _____

Yehi Jassman

**SETTLEMENT AGREEMENT
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
MANATEE COUNTY PUBLIC WORKS DEPARTMENT**

THIS AGREEMENT is entered into by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and Manatee County Public Works Department, P.O. Box 100 Bradenton, FL 32399-3000 (Contractor).

WHEREAS, due to a wastewater reservoir emergency at Piney Point, Manatee County, the Department was required to engage the Contractor to provide labor, equipment and materials in support of emergency operations critical to the Piney Point response; and

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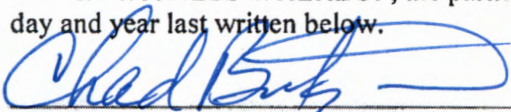
NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

- a. The Department agrees to submit to the Chief Financial Officer of the State of Florida for payment of twenty-four thousand, five-hundred and thirty-nine Dollars and fifty-five Cents, (\$24,539.55), to be processed in accordance with Section 215.422, Florida Statutes. This payment shall be considered full and complete satisfaction of any amounts or costs associated with work performed by the Contractor during the period of service from April 2, 2021 through April 9, 2021, as described on Invoice no. FDEP-001, and any claims and invoices associated therewith including interest, fees, and costs associated with the claim referenced herein.
- b. Upon receipt of payment, as provided in paragraph (a), the Contractor, for itself, its attorneys, heirs, executors, administrators, successors and assigns, does hereby fully, finally and forever release and discharge the State of Florida Department of Environmental Protection and its agents, representatives, and attorneys, of and from all claims, demands, actions, causes of action, suits, damages, losses and expenses, of any and every nature whatsoever arising from any or all of the facts or circumstances which gave rise to this

dispute including, but not limited to, claims that were or may be asserted in any federal, state or local agency or court, by or on behalf of the Contractor.

- c. This Agreement shall be binding upon, and inures to the benefit of, the parties, their assigns, and their successors in interest.
- d. This Agreement is contingent upon approval by the Chief Financial Officer of the State of Florida. Until such approval is received, the Department has no obligation to make any payments pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, the day and year last written below.



Manatee County Public Works Department
Public Works Director

Title
11/16/21

Date

Department of Environmental Protection

Title

Date

APPROVED in Open Session

11/16/2021

Manatee County Board of County
Commissioners



Board of County Commissioners November 16, 2021 - Regular Meeting

SUBJECT

ADOPTION OF RESOLUTION R-21-163 AUTHORIZING THE SIGNING AND SUBMISSION OF SETTLEMENT AGREEMENT BETWEEN FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) AND MANATEE COUNTY PUBLIC WORKS DEPARTMENT

Category

CONSENT AGENDA

Briefings

None

Contact and/or Presenter Information

Chad Butzow, P.E., Public Works Department Director, Ext. 7476

Anthony Russo, P.E., Field Operations Deputy Director, Ext. 7349

Action Requested

Adopt Resolution R-21-163 authorizing the signing and submission of Settlement Agreement between Florida Department of Environmental Protection (FDEP) and Manatee County Public Works Department.

Authorize the Public Works Director or in his absence, the Public Works Deputy Director for Field Operations, to sign and/or submit the agreement, unless specifically rescinded.

Enabling/Regulating Authority

None

Background Discussion

The Florida Department of Environmental Protection agrees to submit to the Chief Financial Officer of the State of Florida for the payment of \$24,539.55, to be processed in accordance with Section 215.422, Florida Statutes. This payment shall be considered full and complete satisfaction of any amounts or costs associated with work performed by the Contractor during the period of service from April 2, 2021 through April 9, 2021 as described on Invoice No. FDEP-001, and any claims and invoices associated therewith including interest, fees, and costs associated with the claim referenced herein.

Upon receipt of payment, the Contractor, for itself, its attorneys, heirs, executors, administrators, successors and assigns, releases and discharges the State of Florida Department of Environmental Protection and its agents, representatives, and attorneys, of and from all claims, demands, actions, causes of action, suits, damages, losses and expenses, of any and every nature whatsoever arising from any or all of the facts or circumstances which gave rise to this dispute including, but not limited to, claims that were or may be asserted in any federal, state or local agency or court, by or on behalf of the Contractor.

This Agreement is contingent upon approval by the Chief Financial Officer of the State of Florida. Until such approval is received, the Department has no obligation to make any payments pursuant to the Agreement.

Attorney Review

Not Reviewed (No apparent legal issues)

[Emailed 11/17/2021](#)

and sent interoffice

Instructions to Board Records

Upon approval, please return an executed copy to: Carmen Mosley, Sr. Fiscal Services Manager, Public Works Department

Cost and Funds Source Account Number and Name

101-0000000-349909

Amount and Frequency of Recurring Costs

\$24,539.55 (revenue)

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WHEREAS, the emergency operations were performed under Mission Numbers 00106 and 00069 via Emergency Final Order 21-0323.

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OF MANATEE COUNTY, FLORIDA**

By: _____
Vanessa Baugh, Chairman

ATTEST: ANGELINA “ANGEL” COLONNESO
Clerk of the Circuit Court

By: _____

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, the day and year last written below.

Manatee County Public Works Department

Department of Environmental Protection

Title

Title

Date

Date

Mission Details

2021 Piney Point Incident
Incident ID Number - 109

Last Updated: 04/12/2021 13:51:57

Created By: Melissa Woehle Phone: 850 815 4929 Email: Melissa.woehle@floridadep.gov On: 04/08/2021 10:09:35

Mission # 00069	Parent Mission # (If Applicable)	Incident 2021 Piney Point Incident	Requesting Agency/Position SERT SERT ESF10	Approved By Kristin Gousse ESF 10 Alt. ECO Kristin.Gousse@floridadep.gov 3523462248
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Status				
Assigned To SERT EMERGENCY SERVICES	Tasked To SERT ESF10	Subtasked To	Status Complete	Vendor

Mission Details		
Title Place Hardpack pad north of Buckeye Rd.	Primary Contact Melissa Woehle 850 815 4929	Location Region 6 - Manatee County 13300 US-41 , Palmetto , FL 34221 27.457243 -82.536261 17R LL 48190 38019
Purpose for offloading chlorine tanker	Melissa.woehle@floridadep.gov	
Lifeline Hazardous Waste	Secondary Contact	On Scene Point of Contact Kristin Gousse 3523462248
Needed By 04/08/2021 10:09:35		Kristin.Gousse@floridadep.gov
Mission Entity Not Applicable	Expected Outage Date 04/08/2021	Site Supported
Description Need a hardpack pad (12x14' wide / 250' long) placed just north of Buckeye Road near the area where Phosphors Free will be working (LWPS pond). Manatee County is at the ready to build it tomorrow; just need the mission number.		Vaccine Supported Mission? No
	Federal Site Mission? No	Vaccine Sites Supported?

Delivery Details			
Delivery Instructions		Warehouse N/A	Loading Dock N/A
Expected Delivery Date	Accept a 53ft trailer N/A	Trailer Qty	Forklift/Dock Equipment N/A

Support Missions							
Mission #	Title	Assigned To	Tasked To	Subtasked To	Status	Needed By	Entry Date

Deployments						
Deployment #	Type	Resource Name	Status	ETA	Entry Date	

Military Deployments				
Military Description	# of Personnel	Unit Assigned	Status	Last Updated

Finance					
Cost Description	Category	Vendor/Provider	Amount	Entry Date	
Total Mission Cost			\$0.00		

Comments

Date/Time	Position/Name	Comments	Status
04/12/2021 13:51:54	ADMN - SERT Administrator Colby Maxwell	API Update	Complete
04/11/2021 09:47:36	SERT ESF10 Melissa Woehle	Per Ed C Smith, DEP innovative tech lead, mission is complete.	Complete
04/09/2021 09:03:20	SERT ESF10 Melissa Woehle	Per Edward C. Smith, confirmed with NClear that it is in the right location and construction is underway.	On Scene
04/08/2021 22:59:40	SERT ESF10 Melissa Woehle	Scheduled to begin construction on 4/9. Mission No. sent to the County.	In-Progress Mobilizing
04/08/2021 10:37:08	SERT OPERATIONS Woodham Harvey	Tasked to ESF 10	Tasked

Attachments

Attachment	Description
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Mission Details

2021 Piney Point Incident
Incident ID Number - 109

Created By: Heather Perkins Phone: 8508154929 Email: Heather.a.Perkins@floridadep.gov On: 04/16/2021 13:18:23
Last Updated: 04/19/2021 15:10:46

Mission # 00106	Parent Mission # (If Applicable)	Incident 2021 Piney Point Incident	Requesting Agency/Position SERT SERT ESF10	Approved By Heather Perkins ESF 10 Planner/Missions heather.a.perkins@floridadep.gov 8502511475
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Status				
Assigned To Unassigned	Tasked To Untasked	Subtasked To	Status On Scene	Vendor

Mission Details				
Title MOT Provisions	Primary Contact Cory Dilmore 8502747462	Location Region 6 - Manatee County 13300 U.S. Hwy 41 , Palmetto , FL 34221 27.524192 -82.561441 17R LL 45795 45467		
Purpose Implement MOT in accordance to plans provided by Manatee Co Public Works	Cory.Dilmore@floridadep.gov			
Lifeline Not Applicable	Secondary Contact	On Scene Point of Contact Aaron Watkins 8502747462		
Needed By 04/16/2021 13:18:23		Aaron.Watkins@dep.state.fl.us		
Mission Entity Not Applicable	Expected Outage Date 04/16/2021	Site Supported		
Description Install a full Maintenance of Traffic (MOT) plan referencing the FDOT Design Standard Index 102-602 in accordance to plans provided by Manatee Co Public Works. Add an additional variable message board trailer for east bound traffic. (using same message as the existing sign for west bound) Include motorist awareness system signs for both directions. Permit is not needed.	Federal Site Mission? No	Vaccine Supported Mission? No		
		Vaccine Sites Supported?		

Delivery Details				
Delivery Instructions Buckeye Rd	Warehouse N/A	Loading Dock N/A		
Expected Delivery Date	Accept a 53ft trailer N/A	Trailer Qty	Forklift/Dock Equipment N/A	

Support Missions							
Mission #	Title	Assigned To	Tasked To	Subtasked To	Status	Needed By	Entry Date

Deployments						
Deployment #	Type	Resource Name	Status	ETA	Entry Date	

Military Deployments				
Military Description	# of Personnel	Unit Assigned	Status	Last Updated

Finance				
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Cost Description	Category	Vendor/Provider	Amount	Entry Date
Total Mission Cost			\$0.00	

Comments				
Date/Time	Position/Name	Comments	Status	
04/19/2021 15:09:58	SERT ESF10 Melissa Woehle	Per Garner, On Scene.	On Scene	
04/16/2021 13:27:44	SERT ESF10 Heather Perkins	Garner is sourcing	In-Progress Mobilizing	

Attachments	
Attachment	Description

Manatee County Public Works Department
 Manatee County
 Board of County Commissioners
 P.O. Box 100
 Bradenton, FL 34206

INVOICE

Date: 6/16/2021

Invoice #: FDEP-001

Bill To:

Attention: Melissa Woehle
 Florida Department of Environmental Protection
 3900 Commonwealth Boulevard
 Tallahassee, FL 32399-3000



Description			Amount
Billing Reference #:	Vendor:	Task:	
PW Work Order 246313	MC Public Works Department	Piney Point Emergency Repair- Inhouse forces equipment, labor and material costs	\$ 1,954.78
PW Work Order 246337	MC Public Works Department	Piney Point Emergency Repair- Inhouse forces equipment, labor and material costs	\$ 1,567.40
PW Work Order 246615	MC Public Works Department	Piney Point Emergency Repair- Inhouse forces equipment, labor and material costs	\$ 21,017.37
Deposit to Account: 101-0000000-349909			
Make Check Payable to: Manatee County Public Works Department PLEASE RETURN ONE COPY WITH REMITTANCE			
Total			\$ 24,539.55

If you have any questions concerning this invoice, please contact:
 Carmen Mosley, Sr. Fiscal Services Manager
 941-708-7450 ext 7209

MISSION 00106
 MISSION 00069



MANATEE COUNTY RESOLUTION NO. R-21-067

WHEREAS, Manatee County, the State of Florida Division of Emergency Management, and the National Weather Service have recognized the danger to Manatee County residents, visitors, and business owners from Piney Point Phosphogypsum Stack; and

WHEREAS, Manatee County has areas vulnerable to the negative impacts of potential unplanned release of phosphogypsum stack water; and

WHEREAS, engineers cannot predict with absolute certainty the location or severity of contaminated water releasing resulting in hazardous impacts; and

WHEREAS, any contaminated water release in unplanned large amounts can result in injuries, damage to public and private property, and may result in first responders and government agencies intervening to protect lives, property, and the environment and to reduce impacts to utilities, public buildings, communication systems, transportation systems, and infrastructure; and

WHEREAS, Section 252.38, Florida Statutes, provides for the establishment of a local emergency management agency, the appointment of the County Administrator thereof, the power and authority thereof, and the power and authority of the Board of County Commissioners in emergency situations; and

WHEREAS, Section 252.46, Florida Statutes, and Manatee County Ordinance 19-47, provide authority for Manatee County to declare a state of local emergency and to exercise the power and authority to carry out the provisions of Florida Statutes Chapter 252, including the authority to waive procedures and formalities otherwise required of political subdivision by law pertaining to:

- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- 2) Entering into contracts;
- 3) Incurring obligations;
- 4) Employment of permanent and temporary workers;
- 5) Utilization of volunteer workers;
- 6) Rental of equipment;
- 7) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and,
- 8) Appropriation and expenditure of public funds.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, on this 1st day of April, 2021, that the potential for unplanned contaminated water release poses a threat to the lives and property of residents of Manatee County and that a State of Local Emergency is hereby declared, effective immediately for all territory within the legal boundaries of Manatee County, including all unincorporated and incorporated areas.

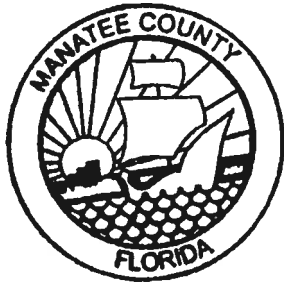
BE IT FURTHER RESOLVED that the Board of County Commissioners hereby waives the above-mentioned procedures and formalities required by law of a political subdivision, as provided in Section 252.38(3), Florida Statutes and Manatee County Ordinance 19-47.

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby delegates to the County Administrator the authority to discharge the duties and exercise the powers specified in Section 5 of Manatee County Ordinance 19-47, until such time as the Local

Emergency declared herein is terminated or expired or seven days from this date, whichever is sooner.

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby delegates to the Director of Public Safety the authority to implement disaster emergency plans, agreements, and supporting documents in accordance with Section 3C of Manatee County Ordinance 19-47.

ADOPTED in Emergency Session, this 1st day of April, 2021.



MANATEE COUNTY, FLORIDA,
a political subdivision of the State
of Florida

By: Board of County Commissioners

By: 
Chairperson

ATTEST:

Angelina M. Colonnese
Clerk of the Circuit Court

By: 