


MEMORANDUM

DATE: September 27, 2024

TO: ****ORIGINAL****
City Clerk

FROM: Robyn Holder, CPPB 
Procurement Management Department

SUBJECT: Record Retention

CONTRACT: #20200077 Amendment #8
CONTRACT TITLE: Construction of Port St. Lucie Blvd. North Roadway Project

CONTRACTOR NAME: Zahlene Enterprises, Inc.
ADDRESS: 11300 NW 97th Ave,
CITY & STATE: Sebring, FL 33870

COUNCIL APPROVED: August 23, 2021

7g)- AWARD CONTRACT #20200077 FOR THE CONSTRUCTION OF PORT ST. LUCIE BLVD. NORTH CONSTRUCTION PROJECT TO ZAHLENE ENTERPRISES, INC. IN AN AMOUNT OF \$8,006,338.18, PUBLIC WORKS DEPARTMENT, PROCUREMENT MANAGEMENT

CONTRACT AMOUNT - \$8,006,338.18
CONTRACT TERM: 9/27/2021 through 3/21/2023, with no option to renew.

COUNCIL APPROVED: N/A

AMENDMENT #1: \$8,790.25 & 0 additional calendar days. New Contract amount \$8,015,128.43.

COUNCIL APPROVED: June 13, 2022

AMENDMENT #2: \$17,904.30 & 0 additional calendar days. New Contract amount \$8,033,032.73.

COUNCIL: APPROVED: N/A.

AMENDMENT #3: Time extension only. New end date is June 23, 2023.

COUNCIL APPROVED: N/A

AMENDMENT #4: Plan revisions only.

COUNCIL APPROVED: May 8, 2023

AMENDMENT #5: \$19,141.72 & 3 calendar days. New Contract amount is \$8,052,174.45.
New end date is June 26, 2023.

COUNCIL: APPROVED: N/A.

AMENDMENT #6: Time extension only. New end date is August 20, 2023.

COUNCIL: APPROVED: N/A.

AMENDMENT #7: \$14,191.47 & 37 additional calendar days for a new Contract amount of \$8,068,365.92 and a new end date of September 26, 2023.

COUNCIL: APPROVED: N/A.

AMENDMENT #8: \$155,399.25 & 450 additional calendar days for a new Contract amount of \$8,221,765.17 and a new end date of December 19, 2024.



CONTRACT AMENDMENT #8

This Amendment #8 ("Amendment #8") for the Construction of Port St. Lucie Blvd. North Roadway Project under Contract #20200077 ("the Contract"), by and between the City and Zahlene Enterprises, Inc. ("Contractor"), shall be effective as of the date this Amendment #8 is fully executed.

Contractor's Full Legal Name:	Zahlene Enterprises, Inc.
Solicitation No./Event ID:	20200077
Solicitation Title/Event Name:	Construction of Port St. Lucie Blvd. North Roadway Project
Contract Award Date:	8/23/2021
Initial Contract Term:	9/27/2021 through 3/21/2023
Current Contract Expiration Date:	9/26/2023
Requested Contract Expiration Date:	12/19/2024 (450 calendar days)
Initial Contract Amount:	\$8,006,338.18
Current Contract Amended Amount:	\$8,066,365.92
Requested Financial Change Amount:	\$155,399.25
New Contract Amount:	\$8,221,765.17
Amendment No.:	8
Amendment Type:	Increase of Commodities

WHEREAS, the Contract, including any previous amendments, was in effect through the Current Contract Expiration Date, as defined above; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

The following modifications to the Terms and Conditions contained in the Contract, are hereby incorporated and made a part of that Contract.

This Amendment #8 is for the items outlined below.

1. **Scope of Work.** Background: On September 23, 2021, the City executed the Contract with Contractor for Construction Services for the above referenced project. This Contract commenced on September 27, 2021, and originally terminated 540 calendar days thereafter on March 21, 2023. The original Contract amount was \$8,006,338.18. This change order shall serve as a settlement of Notice of Intent to Claim (NOI) No. 02, 11, 12, 13, 14 and 20 and will add weather and holiday days for the period of 7/1/2023 to 9/30/2024 to the contract.

NOI No. 02 resulted from delays due to unforeseen conditions that caused stand-by time and delays to the Contractor during the installation of the 16" Water Main called for in the utility plans from March 1, 2022, to March 22, 2022. The Contractor filed NOI No. 02 on 3/02/2022, claiming delays and direct costs in the amount of **\$74,850.03** due to all efforts made to resolve the unforeseen conflicts. After analyzing all the documentation, it is determined that the Contractor has 100% entitlement.

NOI No. 11 resulted from the directive to investigate further field conditions for constructing and installing a new structure S-15A and S-53 not shown in the plans. The structure S-15A would intercept the existing drainage crossing from the eastbound side of the road to maintain positive drainage while under construction Phase 2 through Phase 5. S-53A's new structure was added to the scope of work to connect an existing 36" drainage pipe and with S-53 with a new 36" pipe drain. The Contractor filed NOI No. 11 on 09/20/2023, claiming delays and direct costs in the amount of **\$80,549.22** due to all efforts made to finish all this extra work. After analyzing all the documentation, it is determined that the Contractor has 100% entitlement.

NOI No. 12 resulted from a recent schedule review identifying that Contractor was not compensated for the totality of the actual impact time due to the procurement delay related to NOI No. 01. NOI No. 01 granted 68 days out of the 174 days of the whole procurement delay, leaving Contractor entitled to the remaining 79 days.

NOI No. 13 resulted from delays due to unforeseen conditions that caused stand-by time and delays to the Contractor during the installation of the structure S-29A at Sta. 271+00 (32.25' RT) Offset, and the discovery of an existing 16" FM differing from the site conditions depicted in the Contract documents on April 24, 2024. A proposal was submitted to the City of PSL Utility Department to proceed with a new deflection, and the City concurred. Work commenced on May 9, 2024, and finished on May 20, 2024. Delayed days: 4/24, 5/09, 5/13, 5/14, 5/15, 5/16, 5/17 & 5/20 for a total of 9 days. After analyzing all the documentation, it was determined that Contractor has 100% of the entitlement.

NOI No. 14 resulted from recommendations provided to Contractor not to pave the median from Aurelia to Darwin in order to give the City enough time to decide if they were going to proceed with the tapings on the main line in the median to provide water services to the lots

on the west side of the road. In good faith, Contractor opted to not pave the median from Aurelia to Gatlin to potentially save the City tens of thousands of dollars in replacing this asphalt. Contractor incurred additional costs such as paint removal, stripping, inefficiency in production of clearing and grubbing, earthwork being limited to 50% of the area and much more. During the progress meeting, the City finally notified Contractor on 5/01/2024 that they would be self-performing this work. This inefficiency caused a total of 28 days of delay. After analyzing all the documentation, it was determined that the Contractor has 100% entitlement.

NOI No. 20 resulted from significant challenges during Contractor shift work on April 30, 2024, while excavating to install drainage structure S-45 at Sta. 275+22 (34.82' RT) offset, Contractor encountered an 8" gas main pipe right in the center of where the structure should go. After further investigation, a city permit with City Gas of Florida was found to relocate this line at this specific location and two other locations further south. When Contractor requested concurrence from the utility company that this line was obsolete, and they were told that no one knew if the work was done. It took the Gas Company from 4/30/24 to 5/09/2024 to excavate and determine that the pipe was abandoned and that the gas main had been deflected previously, creating a delay of 9 days. On 5/10/2024, Contractor was able to install the structure. Then on 6/03/2024, while excavating to install the remainder pipe runs for S-24 to S-24A at station 267+55 (42.25' RT) offset, once again encountered the 8" gas main, 16" force main, and an AT&T duct bank. These three utilities conflict with multiple drainage crossings and structures from Sta. 268+00 to Sta. 256+00. This is currently an ongoing delay, and Contractor has been diligently working on adjusting pipe runs already installed halfway, modifying inverts as per instructions from the EOR, and adding deflections where needed to circumvent these conflicts. At this point, the deflections and relocation of the AT&T duct bank are projected to be completed by 9/06/2024. Making these an additional 95 days of delay.

Addition of Glance Preemptive System to the intersections of Gatlin and PSL Blvd, Aurelia and PSL Blvd, and Darwin and PSL Blvd. To date there has been 28 days materials procurement delay on these systems and will also be incorporated into the Contract time request.

Total Amount for This Amendment: \$155,399.25

2. **Contract Extension.** Additional time is needed to allow for procurement delays, various other delays, exploratory work for unforeseen utilities, exploratory work to add structures due to constructability issues, weather days and holidays. Total number of calendar days equal 450. The new end date is December 19, 2024.

The parties hereby agree that the Contract will be extended for an additional period, as follows:

Beginning Date of Amendment #8 Term: September 27, 2023.

End Date of Amendment #8 Term: December 19, 2024.

- A. The parties agree the Contract will expire at midnight on the date defined as the "End Date of Amendment #8 Term" unless the parties agree in a duly executed writing to extend the Contract for an additional period.

3. **E-VERIFY.** In accordance with section 448.095, the Contractor agrees to comply with the following:
 - a. Contractor must register with and use the E-Verify system to verify the work authorization status of all new employees of the Contractor. Contractor must provide City with sufficient proof of compliance with this provision before beginning work under the Contract.
 - b. If Contractor enters into a contract with a subcontractor, Contractor must require each and every subcontractor to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of each and every such affidavit(s) for the duration of the Contract and any renewals thereafter.
 - c. The City shall terminate the Contract if it has a good faith belief that a person or an entity with which it is contracting has knowingly violated section 448.09(1), Florida Statutes.
 - d. Contractor shall immediately terminate any contract with any subcontractor if Contractor has, or develops, a good faith belief that the subcontractor has violated section 448.09(1), Florida Statutes. If City has or develops a good faith belief that any subcontractor of Contractor knowingly violated section 448.09(1), Florida Statutes, or any provision of section 448.095, Florida Statutes, the City shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.
 - e. The City shall terminate the Contract for violation of any provision in this section. If the Contract is terminated under this section, it is not a breach of contract and may not be considered as such. If the City terminates the Contract under this section, the Contractor may not be awarded a public contract for a least one (1) year after the date on which the Contract was terminated. A contractor is liable for any additional costs incurred by the City as a result of the termination of a contract.
 - f. The City, Contractor, or any subcontractor may file a cause of action with a circuit or county court to challenge a termination under section 448.095(5)(c), Florida Statutes, no later than twenty (20) calendar days after the date on which the Contract was terminated. The parties agree that any such cause of action must be filed in St. Lucie County, Florida, in accordance with the Venue provision in Section XXI of the Contract.
4. **DISCRIMINATORY, CONVICTED, AND ANTITRUST VIOLATOR VENDOR LISTS.** Contractor certifies that neither it nor any of its affiliates, as defined in the statutes below, have been placed on the discriminatory vendor list under section 287.134, Florida Statutes; the convicted vendor list under section 287.133, Florida Statutes; or the antitrust violator vendor list under section 287.137, Florida Statutes. Absent certain conditions under these statutes, neither contractors nor their affiliates, as defined in the statutes, who have been placed on such lists may submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
5. **COOPERATION WITH INSPECTOR GENERAL.** Pursuant to section 20.055, Florida Statutes, it is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Contractor understands and will comply with this statute.

6. **SUCCESSORS AND ASSIGNS.** This Amendment #8 shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.
7. **ENTIRE AGREEMENT.** Except as expressly modified by this Amendment #8, the Contract, including any written amendments thereto, shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding, and enforceable obligations to the parties. This Amendment #8 and the Contract, including any written amendments thereto, collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the parties have caused this Amendment #8 to be duly executed by their authorized representatives.

CONTRACTOR

Contractor's Full Legal Name: (PLEASE TYPE OR PRINT)	Zahlene Enterprises Inc.
Authorized Signature:	Jordan M Zahlene <small>Digitally signed by Jordan M Zahlene Date: 2024.09.27 12:53:09 -04'00'</small>
Printed Name and Title of Person Signing:	Jordan M. Zahlene, VP
Date:	09/27/2024
Company Address:	11300 NW 97th Ave. Medley, FL 33178

THE CITY OF PORT ST. LUCIE

Authorized Signature:	<i>Caroline Sturgis</i>
Printed Name and Title of Person Signing:	Caroline Sturgis, Director, Office of Management & Budget, and Procurement
Date:	September 30, 2024
City Address:	121 S.W. Port St. Lucie Blvd., Port St. Lucie, FL 34984