



MIAMI-DADE EXPRESSWAY AUTHORITY

3790 NW 21 St. // Miami, FL 33142

www.mdxway.com

SUPPLEMENTAL AGREEMENT NO. 5 TO DESIGN-BUILD CONTRACT

MDX PROCUREMENT/CONTRACT NO.: MDX-16-01

BOND NUMBERS:
106917823/106924813

MDX WORK PROGRAM NOS.: 83611.101

MDX PROJECT/SERVICE TITLE: DESIGN-BUILD SERVICES FOR THE RECONSTRUCTION OF SR-836/I-395 FROM WEST OF NW 17TH AVENUE TO I-95/ MIDTOWN INTERCHANGE IN MIAMI-DADE COUNTY

THIS SUPPLEMENTAL AGREEMENT NO. 5 TO DESIGN-BUILD CONTRACT (as "SA #5) is made and entered into this 9th day of JUNE, 2021 (the "Effective Date"), by and between the *Miami-Dade County Expressway Authority d/b/a Miami Dade Expressway Authority (the "Authority" or "MDX")*, a body politic and corporate, a public instrumentality of the State of Florida, under Chapter 348, Part 1, Florida Statutes, and created by the Board of County Commissioner of Miami Dade County as amended, acting by and through its Governing Board, and *Archer Western-de Moya Joint Venture* (as the "Design-Build Firm"), a **Florida** Corporation, duly authorized to transact business in the State of Florida *F.E.I.N. 38-3993222*; and *Travelers Casualty and Surety Company of America* (as "Surety") a *Connecticut* corporation duly authorized to transact business in the State of Florida; *F.E.I.N. 06-0907370* (collectively, referred to as the "Parties" to this SA #5).

WITNESSETH

WHEREAS, MDX and the Florida Department of Transportation (the "Department") separately engaged in the Project Development and Environment (PD&E) Study and design of improvements to the SR 836 and I-395 corridor and the Midtown Interchange to improve safety, reduce congestion and enhance mobility; and

WHEREAS, MDX and the Department agree that pursuant to *MDX Procurement/Contract No.: AGMT-FDOT-FY16-01*, and in partnership with MDX, that FDOT will competitively procure, and manage the construction contracts for both agencies; and

WHEREAS, the Department, pursuant to Section 334.30, Florida Statutes, issued Request for Proposals (RFP), for SR 836/I-395/I-95, to solicit competitive bids and proposals from Design-Build Firms (DBFs) for two (2) separate contracts for construction improvements to the same area but improvements/right of way owned/operated by the Department and MDX as follows:

- The first contract (E6J53) is the Department Contract between the Department and the Archer Western – de Moya Joint Venture for the design and construction of the Total Project.
- The second contract (MDX-16-01) is the MDX Contract between MDX and Archer Western – de Moya Joint Venture for the MDX portion of the Total Project; and

WHEREAS, the I-395 Agreements, E6J53 and MDX-16-01, means collectively the Department Contract and the MDX Contract; and

WHEREAS, on *July 12, 2018*, MDX and the Design-Build Firm entered into MDX Procurement/Contract No. **MDX-16-01** (the Design-Build Contract” or “Contract”) to facilitate the MDX portion of Total Project; and

WHEREAS, on *March 24, 2020*, the Parties entered into *Supplemental Agreement No. 1* to the Design-Build Contract **MDX-16-01** to add specification and a pay item for the Contingency; and

WHEREAS, on *October 22, 2020* the Parties entered into *Supplemental Agreement No. 2* to the Design-Build Contract **MDX-16-01** to add specification and pay item for Empirical Deck Method Cost Savings Initiative; to add specification and pay item for Preferred Equipment for Intelligent Transportation System (ITS); to add specification and pay item for Department of Corrections Parking Facility (Lot 4) Adjacent to Women's Detention Center and Temporary Parking Lot; and to add specification and pay item for Contingency; and

WHEREAS, on *October 22, 2020* the Parties entered into *Supplemental Agreement No. 3* to the Design-Build Contract **MDX-16-01** to add specification and pay item for Strengthening of Bridges 109 and 110; to add specification and pay item for Ramp T Descoping; to add specification and pay item for Ramp S and T Extra Design Fees; to add specification and pay item for Bridge 104 Design Fees for Change from TL 4 to TL 5 Traffic Railings; and to add specification and pay item for Contingency; and

WHEREAS, on *March 1, 2021* the Parties entered into *Supplemental Agreement No. 4* to the Design-Build Contract **MDX-16-01** to add specification and pay item for Steel and Aluminum Tariff Adjustments; and add specification and pay item for Wrong Way Countermeasures Design Fees.

WHEREAS, the purpose of this *Supplemental Agreement No. 5* to the Design-Build Contract **MDX-16-01**, is to add specification for Auger Cast Pie (ACP) and incorporate settlement of issues as a Global Settlement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following:

1. The foregoing recitations are true and correct and are incorporated herein by reference.

2. The attached *Exhibit A, Entitlement Analysis* is made part of this SA #5 and is incorporated herein.
3. The 42-inch high (TL-5) bridge traffic railing requirement on the outsides of the Miami River Bridge (Bridges 109 and 110) will remain per the Request for Proposal (RFP).
4. Auger Cast Piling will be allowed for the foundations on the Viaduct Bridges 101, 102, 103 and 104. Twenty-Eight (28) conditions (see Exhibit C, Twenty-Eight Conditions) are hereby incorporated into the Contract and made a condition and requirement of this Supplemental Agreement
5. Nightly closures are permitted beginning at 8 pm for a maximum of 35 days in connection with the erection of the Viaduct Bridge 101 precast pier caps and beams.
6. The Design Build Firm will provide for a notch in the pier caps of Viaduct Bridges 101 to allow to placement of beams without full closure of SR 836.
7. The Design Build Firm will follow the Technical Proposal Concept and leave the 36-inch-high single slope traffic railings on bridges 101, 102, 103 and 104.
8. The existing bridge 17, 109 and 110 decks between inside railings to be removed will remain as per the appropriate Released for Construction (RFC) plans with additional details provided to address drainage and railings for safety concerns.
9. The Design Build Firm may use non-coated stay in place (SIP) forms on the MDX bridges
10. Retrofit of the traffic railing at the loop Ramp Q (ramp from SB NW 12 Ave to SR 836 EB) is allowed in lieu of replacement as required in the RFP.
11. The Design Build Firm will provide the credit for Empirical Method Deck Design of all bridges with new spans on the MDX contract as a Cost Savings Initiative (CSI). This credit will be applied under a separate Supplemental Agreement.
12. One foot cover is allowed on the new viaduct pier foundations and the Design Build Firm is required to match elevations of existing foundations on bridge widenings.
13. The Design Build Firm is allowed the use of mitered monotubes in the MDX portion of the project. The mitered monotubes are to follow the Tampa Hillsboro Expressway Authority design requirements.
14. The Design Build Firm rescinds, withdraws, and agrees to not pursue the following Notices of Intent to Claim (NOIs): 0000, 0001, 0002, 0003, 0004, 0005, 0006, 0007, 0008, 0010, 0010.1, 0010.2, 0013, 0015, 0017, 0020 and 0020.1.

15. MDX and the Design Build Firm, in consideration of the mutual covenants contained in this Supplemental Agreement and for other good and valuable consideration, do hereby agree to settle any and all issues, causes of action, demands, claims, disputes, requests, matters of controversies, of any nature or kind, known or unknown, regardless of whether any dispute or accord exists on such matter, which the Design Build Firm has, or may have, as to work performed, work deleted, delays, disruptions, differing site conditions, utility conflicts, design changes, time extensions, extra work, lost productivity, extended or unabsorbed home office or job site overhead, lump sum Maintenance of Traffic adjustments, bonuses, incentives, lost profits, prime mark-up on subcontractor work, any and all direct or indirect costs, any other adverse impacts, events, conditions or circumstances, or potential damages, in any way arising out of or pertaining to the issues described in this SA #5.

16. MDX agrees to pay the Design Build Firm **Zero Dollars and Zero Cents (\$0.00)** as consideration for the settlement described in this SA #5.

17. **Contract Amount**

As a result of this SA #5, there is no increase to the Contract Amount. The Contract Amount is **One Hundred Eighty-Nine Million, Four Hundred Twenty-Six Thousand, Eight Hundred Twenty Dollars and Eighty-Five Cents (\$189,426,820.85)**.

The following table sets forth the revisions to the Contract Amount for each Contract Supplemental Agreement including this SA #5.

MDX WORK PROGRAM NO. 83611-101	
Original Contract Amount	
Original Design-Build Total	\$185,999,998.00
Total	\$185,999,998.00
Supplemental Agreement No. 1	
Increase/Decrease to Contract	\$150,000.00
Subtotal	\$150,000.00
Contract Amount SA #1	
Design-Build Total	\$185,999,998.00
Contingency (Item 9999-21)	\$150,000.00
Total	\$186,149,998.00

MDX PROCUREMENT/CONTRACT NO.: MDX-16-01

MDX WORK PROGRAM NOS.: 83611.101

**MDX PROJECT/SERVICE TITLE: DESIGN-BUILD SERVICES FOR THE RECONSTRUCTION OF SR-836/I-395
FROM WEST OF NW 17TH AVENUE TO I-95/MIDTOWN INTERCHANGE IN MIAMI-DADE COUNTY**

MDX WORK PROGRAM NO. 83611-101	
Supplemental Agreement No. 2	
Increase/Decrease to Contract	\$0.00
Subtotal	\$0.00
Contract Amount SA #2	
Design-Build Total	\$185,999,998.00
Contingency (Item 9999-21)	\$150,000.00
Empirical Deck Method - CSI Reduction to Contract MDX-16-01 (Net Savings)	(\$366,576.00)
Item 9999-6 Cost Savings Initiative Empirical Deck Design Method	\$183,288.00
Item 9999-6 Preferred Equipment ITS	\$58,181.49
Item 9999-6 Women's Detention Center& Temporary Parking Lot Gates & Temporary Power	\$61,679.88
Item 9999-22 Contingency	\$63,426.63
Total	\$186,149,998.00
Supplemental Agreement No. 3	
Increase/Decrease to Contract	\$1,843,934.32
Subtotal	\$1,843,934.32
Contract Amount SA #3	
Design-Build Total	\$185,999,998.00
Contingency (Item 9999-21)	\$150,000.00
Item 9999-7 Strengthening of Bridges 109 and 110	\$785,000.00
Item 9999-8 Ramp T De-Scoping	\$411,181.56
Item 9999-8 Ramp S and T Extra Design Fees	\$376,488.21
Item 9999-8 Bridge 104 Design Fees for Change from TL 4 to TL 5 Traffic Railing	\$101,264.55
Item 9999-23 Contingency	\$170,000.00
Total	\$187,993,932.32
Supplemental Agreement No. 4	
Increase/Decrease to Contract	\$1,432,888.53
Subtotal	\$1,432,888.53
Contract Amount SA #4	
Design-Build Total	\$187,673,932.32
Contingency (Item 9999-21)	\$150,000.00
Contingency (Item 9999-23)	\$170,000.00
Item 0-50-4 Steel and Aluminum Tariff Adjustments	\$1,391,280.00
Item 9999-9 Wrong-Way Countermeasures Design Fees	\$41,608.53
Total	\$189,426,820.85
Supplemental Agreement No. 5	
Increase/Decrease to Contract	\$0.00
Subtotal	\$0.00
Contract Amount SA #5	
Design-Build Total	\$189,106,820.85
Contingency (Item 9999-21)	\$150,000.00
Contingency (Item 9999-23)	\$170,000.00
Total	\$189,426,820.85

18. Contract Bond Amount

As a result of this SA #5, there is no increase to the Contract Bond Amount. i The Contract Bond Amount is ***One Hundred Eighty-Nine Million, Four Hundred Twenty-Six Thousand, Eight Hundred Twenty Dollars and Eighty-Five Cents (\$189,426,820.85).***

19. Contract Time

- There is no additional Contract Time granted for this SA #5 as a result of items 3 through 16 above.
- However, pursuant to the Department Supplemental Agreement No. SMC0 38 to Contract E6J53, ***Two Hundred Forty (240)*** Calendar Days have been added to the Contract Time. This Contract Time is hereby incorporated into this SA #5 by reference only.

The following table sets forth the revisions to the Contract Time based on the Time Extensions Granted for the Effects of Inclement Weather & Holidays, Supplemental Agreements and this SA #5:

MDX WORK PROGRAM NO. 83611-101		
Time Granted	End Date	Calendar Days
Original Contract Time		
Notice to Proceed - 7/13/2018		
Construction Time Starts - 10/29/2018	10/27/2022	1460
Adjustment to Contract Time for the Effects of Inclement Weather & Holiday (SA #1)		
Time Granted	End Date	Calendar Days
07 Calendar Days (Extension dated 12/12/2018)	11/03/2022	1467
08 Calendar Days (Extension dated 01/02/2019)	11/11/2022	1475
03 Calendar Days (Extension dated 02/01/2019)	11/14/2022	1478
04 Calendar Days (Extension dated 03/01/2019)	11/18/2022	1482
07 Calendar Days (Extension dated 04/01/2019)	11/25/2022	1489
04 Calendar Days (Extension dated 05/01/2019)	11/29/2022	1493
06 Calendar Days (Extension dated 06/01/2019)	12/05/2022	1499
11 Calendar Days (Extension dated 07/01/2019)	12/16/2022	1510
08 Calendar Days (Extension dated 08/01/2019)	12/24/2022	1516
15 Calendar Days (Extension dated 09/03/2019)	1/08/2023	1533
07 Calendar Days (Extension dated 10/02/2019)	1/15/2023	1540
04 Calendar Days (Extension dated 11/01/2019)	1/19/2023	1544
01 Calendar Days (Extension dated 11/12/2019)	1/20/2023	1545
05 Calendar Days (Extension dated 12/02/2019)	1/25/2023	1550
09 Calendar Days (Extension dated 01/02/2020)	2/03/2023	1559
12 Calendar Days (Extension dated 02/03/2020)	2/15/2023	1571
04 Calendar Days (Extension dated 03/02/2020)	2/19/2023	1575
Supplemental Agreement # 1		
0 Calendar Days	2/19/2023	1575

MDX WORK PROGRAM NO. 83611-101		
Time Granted	End Date	Calendar Days
Adjustment to Contract Time for the Effects of Inclement Weather & Holiday (SA #2)		
01 Calendar Days (Extension dated 04/01/2020)	2/20/2023	1576
03 Calendar Days (Extension dated 05/01/2020)	2/23/2023	1579
10 Calendar Days (Extension dated 06/02/2020)	3/05/2023	1589
06 Calendar Days (Extension dated 07/02/2020)	3/11/2023	1595
10 Calendar Days (Extension dated 08/04/2020)	3/21/2023	1605
06 Calendar Days (Extension dated 09/01/2020)	3/27/2020	1611
Supplemental Agreement #2		
0 Calendar Days	3/27/2023	1611
Supplemental Agreement #3		
0 Calendar Days	3/27/2023	1611
Adjustment to Contract Time for the Effects of Inclement Weather & Holiday (SA #4)		
10 Calendar Days (Extension dated 10/02/2020)	4/06/2023	1621
07 Calendar Days (Extension dated 11/04/2020)	4/13/2023	1628
19 Calendar Days (Extension dated 12/08/2020)	5/02/2023	1647
05 Calendar Days (Extension dated 01/07/2021)	5/07/2023	1652
03 Calendar Days (Extension dated 02/03/2021)	5/10/2023	1655
Supplemental Agreement #4		
0 Calendar Days	5/10/2023	1655
Adjustment to Contract Time for the Effects of Inclement Weather & Holiday (SA #5)		
04 Calendar Days (Extension dated 03/02/2021)	5/14/2023	1659
01 Calendar Days (Extension dated 04/01/2021)	5/15/2023	1660
Contract Time added by the Department Supplemental Agreement No SMCO 38 to Contract E6J53		
240 Calendar Days	1/10/2024	1900
Supplemental Agreement #5		
0 Calendar Days	1/10/2024	1900

20. The Parties hereby agree that the enhancements expressed in this SA #5, adding the aforementioned pay items, constitutes a full and complete settlement for all the matters set forth within and full and complete settlement of all design and construction issues including request for additional time and additional costs, unless otherwise expressly noted in this SA #5.
21. MDX reserves all of its rights provided under the Contract and Florida law and nothing herein, whether stated or implied, waives such rights.
22. The defined terms used herein, unless otherwise defined in this SA #5, shall have the meanings ascribed to them in the Contract(s) MDX-16-01 and E6J53.
23. Except as expressly provided herein, all of the terms, conditions, covenants, agreements and understandings contained in the Contract(s) MDX-16-01 and E6J53 shall remain unchanged and in full force and effect, and the same are hereby expressly ratified and confirmed by the Parties.

24. This SA #5 shall not alter or change in any manner the force and effect of the Contract(s) MDX-16-01 and E6J53, including any previous amendments thereto, except insofar as the same is altered and amended by this SA #5.

25. Exhibits:

Exhibit A Entitlement Analysis

Exhibit B Department Supplemental Agreement No SMC0 38 to Contract E6J53 (for reference of additional Contract Time only)

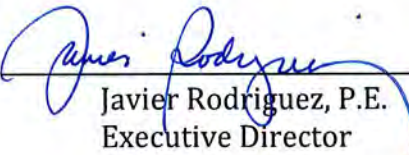
Exhibit C Twenty-Eight Conditions

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNES WHEREOF, the Parties have caused this SA #5 to be executed by their respective and duly authorized officers as of the Effective Date defined herein.

MIAMI-DADE EXPRESSWAY AUTHORITY

ARCHER WESTERN - DE MOYA JOINT VENTURE

By: 
Javier Rodriguez, P.E.
Executive Director

By: 
Signature of Authorized Officer

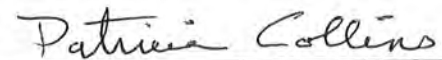
Matthew Persing
Print Name of Authorized Officer

ATTORNEY-IN-FACT
Title of Authorized Officer

ATTEST: _____
Secretary Signature

{Corporate Seal}

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

By: 
Authorized Signatory

PATRICIA COLLINS
Print Name of Authorized Signatory

ATTORNEY - IN-FACT
Title of Authorized Signatory

Countersigned: N/A
Resident Florida Agent

Print Name

{Corporate Seal}

A power of Attorney showing authority of the Surety's Agent, or Attorneys'-in-Fact, to sign on behalf of and bind the Surety Company shall be attached to this Supplemental Agreement No. 5 to MDX Procurement/ Contract No. MDX-16-01.



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Patricia Collins** of **SARASOTA Florida**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th** day of **January**, **2019**.



State of Connecticut

City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **17th** day of **January**, **2019**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2021**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

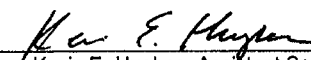
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **2** day of **June**, **2021**




Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.**