

# PAVESE LAW FIRM

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October 9, 2015

**SUBMITTED AT ZONING COUNTER**

Ms. Pamela Houck, Director  
Lee County Dept. of Community Development  
1500 Monroe Street  
Fort Myers, FL 33901

Mr. Michael Jacob, Managing Assistant County Attorney  
Lee County Attorney's Office  
2115 Second Street, 6<sup>th</sup> Floor  
Fort Myers, FL 33901

**RE: Palermo Master Concept Plan (Z-04-019) Section 252.363 of the Florida Statutes and Executive Order # 15-173  
Eight-Month Extension Request**

*Original Approval*  
*DCI2003-00023*

Dear Ms. Houck and Mr. Jacob:

Please accept this letter as a request for a time extension for Palermo in light of the state-wide State of Emergency declared for Tropical Storm Erika. Section 252.363 provides for a six-month extension and Executive Order #15-173 provides for a 60-day extension (in total, an 8-month extension) for the expiration date of the Palermo Master Concept Plan (Z-04-019). Please also find attached hereto a copy of a press release from the Governor's Office making it clear that the State of Emergency declared for Tropical Storm Erika was of state-wide application.

The operative portions of Section 252.363 of the Florida Statutes state:

*The declaration of a state of emergency by the Governor tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 6 months in addition to the tolled period. This paragraph applies to the following:*

*1. The expiration of a development order issued by a local government.*

...

Emphasis added. Fla. Stat. § 252.363(1)(a) (2015).

The Governor declared a state of emergency across Florida due to Tropical Storm Erika on August 28, 2015 under Executive Order # 15-173. The Executive Order states:

*Because of the foregoing conditions, [the Governor] declare[s] that a state of emergency exists*

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in every county within the State of Florida.

...

*[The Governor] give[s] all state agency heads the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application [sic] are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expires as of the date of this Executive Order are suspended and tolled to the extent needed to meet this emergency.*

...

*This Executive Order shall expire sixty [60] days from this date unless extended.*

Emphasis added. Sections 1, 4.G, and 11, Executive Order # 15-173 (2015).

Therefore, between Section 252.363 of the Florida Statutes and Executive Order # 15-173 the total number of months permitted for an extension of a development order or any other approval beyond any previously granted is 8-months. The current expiration date for the Palermo Master Concept Plan is April 25, 2018. Accordingly, please accept this letter as the notification of the desire and intent to receive the 8-month extension in accordance with the above styled provisions of Section 252.363 of the Florida Statutes and Executive Order # 15-173. Approval would extend the expiration date for the Palermo Master Concept Plan to December 25, 2018.

Your consideration of this matter is greatly appreciated.

Sincerely,

Charles Mann

CM/KOB

Enclosures (as indicated)

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# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 15-173 (Tropical Storm Erika)

**WHEREAS**, as of 8:00 a.m. on Friday, August 28, 2015, Tropical Storm Erika is traversing the northeastern Caribbean Sea with maximum sustained winds of fifty miles per hour; and

**WHEREAS**, the five-day forecast issued by the National Hurricane Center predicts that, from August 30 and continuing through September 2, Tropical Storm Erika will travel up the spine of Florida's peninsula; and

**WHEREAS**, Tropical Storm Erika poses a severe threat to the entire State of Florida and requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of this State; and

**WHEREAS**, as Governor, I am responsible to meet the dangers presented to this state and its people by this emergency.

**NOW, THEREFORE, I, RICK SCOTT**, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I declare that a state of emergency exists in every county within the State of Florida.

Section 2. I designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and direct him to execute the State's





Comprehensive Emergency Management Plan and other response, recovery, and mitigation plans necessary to cope with the emergency. Pursuant to section 252.36(1)(a), Florida Statutes, I delegate to the State Coordinating Officer the authority to exercise those powers delineated in sections 252.36(5)–(10), Florida Statutes, which he shall exercise as needed to meet this emergency, subject to the limitations of section 252.33, Florida Statutes. In exercising the powers delegated by this Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. The State Coordinating Officer shall also have the authority to:

A. Invoke and administer the Emergency Management Assistance Compact (“EMAC”) (sections 252.921-.933, Florida Statutes) and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources from such other states that are made available to Florida under such compacts and agreements so as best to meet this emergency.

B. Seek direct assistance and enter into agreements with any and all agencies of the United States Government as may be needed to meet the emergency.

C. Direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command and coordination of the State Coordinating Officer to meet this emergency.

D. Designate Deputy State Coordinating Officers. The State Coordinating Officer shall have the authority to enter such orders as may be needed to implement any of the foregoing powers.

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Section 3. I order the Adjutant General to activate the Florida National Guard for the duration of this emergency, and I place the National Guard under the coordination and direction of the State Coordinating Officer for the duration of this emergency.

Section 4. I also find that the special duties and responsibilities resting upon some State, regional, and local agencies and other governmental bodies in responding to the emergency may require them to waive or deviate from the statutes, rules, ordinances, and orders they administer. I delegate to the State and regional agencies the authority to waive or deviate from such statutes, rules, or agency orders to the extent that such actions are needed to cope with this emergency, including, but not limited to, any and all statutes, rules, or orders that affect budgeting, leasing, printing, purchasing, travel, conditions of employment, and the compensation of employees. I delegate to county, regional, and local governmental agencies the authority to likewise waive or deviate from their respective rules, ordinances, or orders. Any waiver of or deviation from statutes, rules, ordinances, or orders shall be by emergency rule or order in accordance with sections 120.54(4) and 252.46, Florida Statutes, and shall expire in thirty days from the date of this Executive Order, unless extended by the agency in increments not exceeding thirty days, and in no event shall remain in effect beyond the earlier of the date of expiration of this Order, as extended, or ninety days from the date of issuance of this Order. All governmental agencies exercising this authority in response to this emergency shall advise the State Coordinating Officer contemporaneously or as soon as is practicable.

Without limiting the generality of the foregoing, I order the following:

A. I give all agencies whose employees are certified by the American Red Cross as disaster service volunteers within the meaning of Section 110.120(3), Florida Statutes, the

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authority to release any such employees for such service as requested by the Red Cross to meet this emergency.

B. I authorize the Department of Transportation (DOT) to waive the collection of tolls and other fees and charges for the use of the Turnpike and other public highways, to the extent such waiver may be needed to provide emergency assistance or facilitate the evacuation of the affected counties; to reverse the flow of traffic or close any and all highways and portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties that the State Coordinating Officer may designate as destination counties for evacuees in this emergency; to suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida; to waive the hours of service requirements for such vehicles; and to waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services. The DOT shall also have the authority to waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services, supplies, and agricultural commodities and citrus as recommended by the Commissioner of Agriculture, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency. In doing so, the DOT shall issue permits and such vehicles shall be subject to such special conditions as the DOT may endorse on any such permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other

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than those specified in this Executive Order, or from any statute, rule, order, or other legal requirement not specifically waived herein or by supplemental order by the State Coordinating Officer;

C. I authorize the Executive Director of the Department of Highway Safety and Motor Vehicles (DHSMV) to suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida; and to waive the hours of service requirements for such vehicles; to suspend the enforcement of the licensing and registration requirements under the International Fuel Tax Agreement (IFTA) pursuant to Chapter 207 Florida Statutes, and the International Registration Plan (IRP) pursuant to section 320.0715, Florida Statutes, for motor carriers or drivers operating commercial motor vehicles that are properly registered in other jurisdictions and that are participating in emergency relief efforts through the transportation of equipment and supplies or providing other assistance in the form of emergency services. Recordkeeping and other applicable requirements for existing IFTA and IRP licensees and registrants are not affected by this order. Furthermore, the DHSMV shall have the discretion to waive fees for duplicate or replacement vessel registration certificates, vessel title certificates, vehicle license plates, vehicle registration certificates, vehicle tag certificates, vehicle title certificates, handicapped parking permits, replacement drivers' licenses, and replacement identification cards and to waive the additional fees for the late renewal of or application for such licenses, certificates, and documents due to the effects of adverse weather conditions. In addition, the DHSMV is authorized to defer administrative actions and waive fees imposed by law for the late renewal or application for the above licenses, certificates, and

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documents, which were delayed due to the effects of adverse weather conditions, including in counties wherein the DHSMV has closed offices, or any office of the County Tax Collector that acts on behalf of the DHSMV to process renewals has closed offices due to adverse weather conditions. The DHSMV shall promptly notify the State Coordinating Officer when the waiver is no longer necessary.

D. In accordance with section 465.0275, Florida Statutes, pharmacists are authorized to dispense up to a 30-day emergency prescription refill of maintenance medication to persons who reside in an area or county covered under this Executive Order and to emergency personnel who have been activated by their state and local agency but who do not reside in an area or county covered by this Executive Order.

E. I give all State agency heads the authority to suspend the effect of any statute, rule, ordinance, or order, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, including, but not limited to, any and all statutes, rules, ordinances, or orders which affect budgeting, leasing, printing, purchasing, travel, and the condition of employment and the compensation of employees, but not limited to, any statute, rule, ordinance, or order shall be suspended only to the extent necessary to ensure the timely performance of disaster response functions as prescribed in the State Comprehensive Emergency Management Plan, or as directed by the State Coordinating Officer. Furthermore, I authorize the Executive Office of the Governor to waive all statutes affecting budgeting to the extent necessary to provide budget authority for state agencies to cope with this emergency. Any waiver of statutes, rules, ordinances, or orders shall be by emergency rule or order in accordance with sections 120.54(4) and 252.46, Florida Statutes, and shall expire in thirty days from the date of this Executive Order unless extended in increments of no more than

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thirty days by the agency, and in no event shall remain in effect beyond the earlier of the date of expiration of this Order, as extended, or ninety days from the date of issuance of this Order.

F. I give all State agency heads responsible for the use of State buildings and facilities the authority to close such buildings and facilities in those portions of the State affected by this emergency, to the extent to meet this emergency.

G. I give all State agency heads the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are suspended and tolled to the extent needed to meet this emergency.

Section 5. All public facilities, including elementary and secondary schools, community colleges, state universities, and other facilities owned or leased by the state, regional or local governments that are suitable for use as public shelters shall be made available at the request of the local emergency management agencies to ensure the proper reception and care of all evacuees.

Section 6. I find that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies are unreasonably great and may be inadequate to pay the costs of coping with this disaster. In accordance with section 252.37(2), Florida Statutes, I direct that sufficient funds be made available, as needed, by transferring and expending moneys appropriated for other purposes, moneys from unappropriated surplus funds, or from the Budget Stabilization Fund.

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Section 7. All State agencies entering emergency final orders or other final actions in response to this emergency shall advise the State Coordinating Officer contemporaneously or as soon as practicable.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Section 9. Pursuant to section 501.160, Florida Statutes, it is unlawful and a violation of section 501.204 for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

Section 10. Any person authorized to deliver medications under chapter 893, Florida Statutes, who delivers medications to pharmacies or hospitals located within the area(s) declared to be under a state of emergency by this Executive Order shall enjoy the same road access available to emergency vehicles provided the State Coordinating Officer determines, after consultation with the appropriate Emergency Support Function(s), that:

A. Law enforcement officials in the declared area(s) can provide adequate security to protect the medications from theft;

B. The weight of a delivery vehicle will not jeopardize the structural integrity of any roadway or bridge located within the declared area;

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C. Delivery vehicles will not negatively impact evacuation activities in the declared area(s); and,

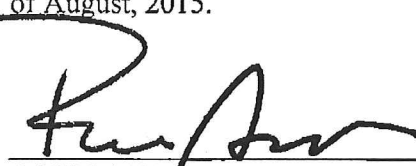
D. Delivery vehicles will not negatively impact any response or recovery activities occurring within the declared area(s).

After consulting with the appropriate Emergency Support Function(s), and after consulting with local officials, the State Coordinating Officer shall dictate the routes of ingress and egress that drivers must follow when delivering medications to pharmacies or hospitals located within the declared area(s).

Section 11. All actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified. This Executive Order shall expire sixty days from this date unless extended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 28th day of August, 2015.



  
GOVERNOR

ATTEST:

  
SECRETARY OF STATE

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## GOVERNOR SCOTT DECLARES A STATE OF EMERGENCY IN FLORIDA IN PREPARATION FOR TROPICAL STORM ERIKA

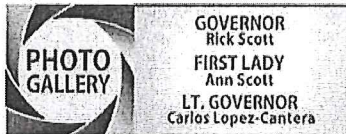
On August 28, 2015, in [News Releases](#), by *Staff*

TALLAHASSEE, Fla. – Today, Governor Rick Scott issued Executive Order 15-173 declaring a state of emergency in every county within the state of Florida in preparation for Tropical Storm Erika.

To view Executive Order 15-173, click [HERE](#).



Comments are closed.



### Contact Governor Scott

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400 S Monroe St  
Tallahassee, FL 32399  
(850) 488-7146

[Click Here to Email Governor Scott](#)

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