

**AMENDMENT NO. 1
TO AGREEMENT NO. 18BO1
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS**

This Amendment to Agreement No. 18BO1 (Agreement) is made by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and Broward County Board of County Commissioners, 115 South Andrews Avenue, Room 329H, Fort Lauderdale, Florida 33301 (Grantee), on the date last signed below.

WHEREAS, the Department entered into the Agreement with the Grantee for the Broward County Shore Protection Project – Segment II effective December 3, 2018; and

WHEREAS, the parties wish to update the Agreement period as set forth herein.

NOW THEREFORE, the parties agree as follows:

- 1) The Agreement is extended for a one-year period to begin July 2, 2021, and remain in effect until July 1, 2022. The Agreement begin date is also changed from January 1, 2018 to December 1, 2015. The Department and the Grantee shall continue to perform their respective duties during this extension period pursuant to the same terms and conditions provided in the Agreement.
- 2) Attachment 3, Grant Work Plan, is hereby deleted in its entirety and replaced with Attachment 3-A, Revised Grant Work Plan, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Attachment 3 shall hereinafter refer to Attachment 3-A, Revised Grant Work Plan.
- 3) Exhibit A, Public Records Requirements, as attached to this Amendment, is hereby incorporated into the Agreement.
- 4) The following provision hereby replaces Attachment 1, Section 24 of the Agreement:

Scrutinized Companies.

- A. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
 - B. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
 - C. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.
- 5) All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistencies may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

The parties agree to the terms and conditions of this Amendment and have duly authorized their respective representatives to sign it on the dates indicated below.

Broward County Board of County Commissioners

Florida Department of Environmental Protection

By: _____
Title: _____

By: _____
Secretary or Designee

Date: _____

Date: _____

LIST OF ATTACHMENTS/EXHIBITS INCLUDED AS PART OF THIS AMENDMENT:

| <u>Specify Type</u> | <u>Letter/Number</u> | <u>Description</u> |
|---------------------|----------------------|-------------------------------------|
| Exhibit | A | Public Records Requirement (1 page) |
| Attachment | 3-A | Revised Grant Work Plan (4 pages) |

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Reviewed and approved as to form:
Andrew J. Meyers, County Attorney

By Kristin M. Carter Digitally signed by Kristin M. Carter
Date: 2021.02.04 11:31:37 -05'00'
 Kristin M. Carter
 Assistant County Attorney

By MAITE AZCOITIA Digitally signed by MAITE AZCOITIA
Date: 2021.02.04 11:59:13 -05'00'
 Maite Azcoitia
 Deputy County Attorney

EXHIBIT A, PUBLIC RECORDS REQUIREMENTS

1. Public Records

- a. If the Agreement exceeds \$35,000.00, and if the Grantee is acting on behalf of the Department in its performance of services under the Agreement, the Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if the Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If the Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the Contractor shall:

- a. Keep and maintain Public Records required by the Department to perform the service.
- b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to the Department.
- e. Upon completion of the contract, transfer, at no cost, to the Department all Public Records in possession of the contractor or keep and maintain Public Records required by the Department to perform the service. If the contractor transfers all Public Records to the Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department’s custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.
- f. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: (850) 245-2118

Email: public.services@dep.state.fl.us

Mailing address: Department of Environmental Protection

ATTN: Office of Ombudsman and Public Services

Public Records Request

3900 Commonwealth Boulevard, MS 49

Tallahassee, Florida 32399

**ATTACHMENT 3-A
REVISED GRANT WORK PLAN**

PROJECT TITLE: Broward County Shore Protection Project – Segment II

PROJECT LOCATION: The Project is located between Department of Environmental Protection (Department/DEP) reference monuments R36 to R41.3 and R51 to R72 along the Atlantic Ocean in Broward County, Florida.

PROJECT BACKGROUND: The Project was initially restored in 1970 from R32 to R49. The subsequent nourishment in 1983 expanded the project boundaries from R25 to R53. Following the passage of Hurricane Sandy in 2012, a small beach fill project was conducted as part of the repairs made to State Route A1A, and in 2014 an FCCE project placed upland sand above the mean high water line along the Project boundary. A new JCP permit for the Project (R25-R85) was issued in 2014. The subsequent truck haul project began in January 2016 and was completed in two segments (R36 to R41.3 and R51 to R72), the second of which was completed in December 2016 after sea turtle nesting season. The permit requires 6.8 acres of artificial reef to be constructed as mitigation for the 2016 nourishment.

PROJECT DESCRIPTION: The Project includes construction and post-construction monitoring tasks for the Broward County Shore Protection Project – Segment II.

PROJECT ELIGIBILITY: The Department has determined that 81.44 percent of the non-federal Project cost is eligible for state cost sharing. Therefore, the Department's financial obligation shall not exceed the sum of \$1,554,605 for this Project or up to 40.72 percent of the non-federal Project cost, if applicable, for the specific eligible Project items listed, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share. The parties agree that eligibility for cost sharing purposes will be maintained pursuant to 62B-36, F.A.C.

The Local Sponsor will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, F.S.

Pursuant to Sections 161.091 - 161.161, F.S., the Department provides financial assistance to eligible governmental entities for beach erosion control and inlet management activities under the Florida Beach Management Funding Assistance Program.

Pursuant to 62B-36.005(1)(d), F.A.C., the Local Sponsor has resolved to support and serve as local sponsor, has demonstrated a financial commitment, and has demonstrated the ability to perform the tasks associated with the beach erosion control project as described herein.

The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at:

<http://www.dep.state.fl.us/beaches/publications/pdf/PhysicalMonitoringStandards.pdf>

One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the Department, unless otherwise specified.

Acronyms:

DEP or FDEP – Florida Department of Environmental Protection
F.A.C. – Florida Administrative Code
FCCE – Flood Control and Coastal Emergency
F.S. – Florida Statutes
FWC – Florida Fish and Wildlife Conservation Commission

TASKS and DELIVERABLES:

For all tasks identified below, the Local Sponsor will provide detailed scopes of work or a letter requesting advance payment, which shall include a narrative description of work to be completed, a corresponding cost estimate and a proposed schedule of completion for the proposed work and associated deliverables. Each scope of work shall be approved in writing by the DEP Project Manager to be included into this work plan for reimbursement.

Task 1: Construction

Task Description: This task includes work performed and costs incurred associated with the placement of fill material and/or the construction of erosion control structures within the Project area. Project costs associated with eligible beach and inlet construction activities include work approved through construction bids and/or construction-phase engineering and monitoring services contracts. Eligible costs may include mobilization, demobilization, construction observation or inspection services, physical and environmental surveys, beach fill, tilling and scarp removal, erosion control structures, mitigation reefs, dune stabilization measures and native beach-dune vegetation. Construction shall be conducted in accordance with any and all State or Federal permits. The Local Sponsor will submit work products to the appropriate State or Federal regulatory agencies as requested by the DEP Project Manager in order to be eligible for reimbursement under this task.

Deliverable: Certification of Completion by a Florida-registered Professional Engineer with documentation of submittal to the Department of a final construction observation report, and a construction-phase survey and report affirming the construction task was completed in accordance with construction contract documents. For interim payment requests, a Task Summary Report must be submitted detailing activities completed during the payment request period. The Task Summary Report must include the dates and descriptions of all activities, surveys and reports completed or in progress during the time period of the interim payment request.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than monthly.

Task 2: Monitoring

State and federal monitoring required by permit is eligible for reimbursement pursuant to program statute and rule. In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(17)(a)(1), F.S., all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Department/Local Sponsor permittee/engineering consultant. The Local Sponsor's engineering consultant must provide an adequate

mitigation plan, consistent with Section 287.057(17)(a)(1), F.S., including a description of organizational, physical, and electronic barriers to be used by the Local Sponsor's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources. Department approval of the consultant's mitigation plan will be required prior to execution of this Agreement. If at any time the Local Sponsor and/or its engineering consultant fails to comply with this provision, the Local Sponsor agrees to reimburse the Department all funds provided by the Department associated with environmental monitoring for the Project listed.

Task Description: This task includes activities associated with permit-required monitoring conducted in accordance with the conditions specified by state or federal regulatory agencies. All monitoring tasks must be located within or adjacent to the Project area and follow the Department's Regional Coastal Monitoring Program and FWC's marine turtle and shorebird monitoring programs. Guidance for monitoring of nearshore resources is available in the Department's Standard Operation Procedures For Nearshore Hardbottom Monitoring Of Beach Nourishment Projects. The Local Sponsor must submit work products directly to the appropriate state or federal regulatory agencies in accordance with permit conditions to be eligible for reimbursement under this task, unless otherwise directed.

Deliverable: For each interim or final payment, the Local Sponsor will provide a Task Summary Report containing; 1) An itemized listing of all monitoring activities completed or in progress during the payment request period and, 2) Documentation of submittal to state and federal regulatory agencies of completed monitoring data, surveys and final reports for permit-required work under this task description.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than monthly.

Estimated Eligible Project Cost

| Task # | Eligible Project Tasks | State Cost Share (%) | Federal Estimated Project Costs | DEP | Local | Total |
|--------|------------------------|----------------------|---------------------------------|-----------------------|-----------------------|-----------------------|
| 1 | Construction | 40.72% | \$4,440,875.06 | \$1,473,571.00 | \$2,145,218.29 | \$8,059,664.35 |
| 2 | Monitoring | 40.72% | \$244,210.00 | \$81,034.00 | \$117,968.00 | \$443,212.00 |
| | COSTS | | \$4,685,085.06 | \$1,554,605.00 | \$2,263,186.29 | \$8,502,876.35 |

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding task end date.

| Task No. | Task Title | Budget Category | Budget Amount | Task Start Date | Deliverable Due Date |
|-----------------|-------------------|------------------------|----------------------|------------------------|-----------------------------|
| 1 | Construction | Contractual Services | \$1,473,571.00 | 12/01/2015 | 04/01/2022 |
| 2 | Monitoring | Contractual Services | \$81,034.00 | 12/01/2015 | 04/01/2022 |
| Total: | | | \$1,554,605.00 | | |