

FIRST AMENDMENT TO THE AGREEMENT BETWEEN BROWARD COUNTY AND  
JOHN C. MARTIN ASSOCIATES, LLC, FOR ECONOMIC IMPACT ANALYSIS FOR PORT EVERGLADES  
(RLI # X1249133P1)

This First Amendment ("First Amendment") to the Agreement (hereinafter defined) is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County" or "COUNTY"), and John C. Martin Associates, LLC, a foreign limited liability company authorized to transact business in the State of Florida ("Consultant" or "MARTIN") (each individually referred to as a "Party" and collectively as the "Parties"), and, upon full execution by the Parties, is retroactively effective as of January 1, 2021 ("Effective Date").

RECITALS

A. The Parties entered into the Agreement between Broward County and John C. Martin Associates, LLC, for Economic Impact Analysis for Port Everglades, dated November 10, 2015 (the "Agreement"), to provide for economic impact analysis for Port Everglades.

B. The Director of Purchasing has exercised all renewal terms and the Agreement is set to expire on April 18, 2021.

C. The Parties desire to retroactively amend the Agreement to extend the term, add the additional services of preparing the comprehensive economic impact report for the County's Fiscal Year 2020 and economic impact model runs during calendar year 2021, and provide for compensation for such additional services.

D. The Parties met and negotiated the additional services and related compensation, all in accordance with the Broward County Procurement Code, and this First Amendment incorporates the results of such negotiation.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
3. Amendments made to the Agreement by this First Amendment are indicated by use of strikethroughs to indicate deletions and underlining to indicate additions, unless otherwise stated.

4. Section 2.1 of the Agreement is amended in its entirety to read as follows:

2.1 MARTIN shall perform all work identified in this Agreement, including, without limitation, Exhibits A and A(1). The Scope of Services stated in this Agreement is a description of MARTIN's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks, which are such an inseparable part of the work described that exclusion would render performance by MARTIN impractical, illogical, or unconscionable.

5. Article 3 of the Agreement is amended in its entirety to read as follows:

3.1 The term of this Agreement shall begin on January 19, 2016, and shall ~~run for a period of three (3) years~~ end on December 31, 2021, unless sooner terminated as provided herein ("Initial Term"). The continuation of this Agreement beyond the end of any COUNTY fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes. ~~The COUNTY's Director of Purchasing may renew this Agreement for up to two (2) one-year periods, upon the same terms and conditions, by giving notice of the renewal to MARTIN at least thirty (30) days prior to the end of the initial term or any renewal term.~~

3.2 Unless otherwise agreed by the Parties in writing, all duties, obligations, and responsibilities of MARTIN required by this Agreement shall be completed no later than the time frames set forth in Exhibits A and A(1). Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

3.3 ~~In the event COUNTY elects to extend the term of this Agreement beyond the Initial Term, MARTIN agrees that it shall continue to provide the Services upon the same terms and conditions as contained in this Agreement for such extended period, which shall not be more than three (3) months beyond the Initial Term. MARTIN shall be compensated for the Services at the rate in effect when the extension was invoked by COUNTY. This option, if elected by COUNTY, shall be exercised by COUNTY's Purchasing Director upon by written notice stating the duration of the extended period which notice shall be provided to MARTIN at least thirty (30) days prior to the end of the Initial Term. The Agreement may be extended on a month-to-month basis for up to six (6) additional months beyond the Initial Term at rates agreed upon by COUNTY and MARTIN ("Extension"). Any such Extension must be set forth in a written amendment to the Agreement, executed by COUNTY and MARTIN, with COUNTY acting through its Director of Purchasing.~~

6. Article 4 of the Agreement is hereby amended in its entirety to read as follows (original underlining omitted):

4.1 ~~For the Initial and Option Term, COUNTY will pay MARTIN for Basic Services a total lump sum maximum amount as follows: Basic Services for Initial Term and Option Terms~~

~~shall be a total lump sum maximum One Hundred Forty-six Thousand Eight Hundred Twenty-six Dollars and Sixty-three Cents (\$146,826.63). Reimbursables for travel are included in the lump sum fees. For Basic Services identified in Exhibit A as payable on a "Lump Sum" basis, compensation to MARTIN shall not be more than a total lump sum of One Hundred Forty-six Thousand Eight Hundred Twenty-six and 63/100 Dollars (\$146,826.63), as set forth in Exhibit B. For Basic Services identified in Exhibit A(1) as payable on a "Lump Sum" basis, compensation to MARTIN shall not be more than a total lump sum of Eleven Thousand Thirty-one and 33/100 Dollars (\$11,031.33), as set forth in Exhibit B(1). Reimbursables for travel are included in the lump sum fees.~~

...

Payment shall be made only for work actually performed and completed pursuant to this Agreement, as set forth in Exhibits B and B(1) (Payment Schedule), which amount shall be accepted by MARTIN as full compensation for all such work. MARTIN acknowledges that the amounts set forth herein are the maximum amounts payable and constitute a limitation upon COUNTY's obligation to compensate MARTIN for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon MARTIN's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, MARTIN shall not be reimbursed for any expenses it incurs under this Agreement.

#### 4.2. METHOD OF BILLING AND PAYMENT

...

4.2.2 Any invoice by MARTIN shall be in the amount set forth in Exhibits B and B(1) for the applicable Services, minus any agreed upon retainage as stated in Exhibits B and B(1). Retainage amounts shall only be invoiced to COUNTY upon completion of all Services under the Agreement, unless otherwise stated in Exhibits B and B(1).

...

7. Article 5 of the Agreement is deleted in its entirety and replaced by the following (underlining and strikethroughs omitted):

MARTIN shall indemnify and hold harmless COUNTY and its current, past, and future officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of MARTIN or other persons employed or utilized by MARTIN in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by Contract Administrator and County Attorney, any sums due

MARTIN under this Agreement may be retained by COUNTY until all of COUNTY'S claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by COUNTY.

8. Section 9.2 of the Agreement is deleted in its entirety and replaced by the following (underlining and strikethroughs omitted):

9.2 Public Records. To the extent MARTIN is acting on behalf of COUNTY as stated in Section 119.0701, Florida Statutes, MARTIN shall:

9.2.1 Keep and maintain public records required by COUNTY to perform the services under this Agreement;

9.2.2 Upon request from COUNTY, provide COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

9.2.3 Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to COUNTY; and

9.2.4 Upon completion or termination of this Agreement, transfer to COUNTY, at no cost, all public records in possession of MARTIN or keep and maintain public records required by COUNTY to perform the services. If MARTIN transfers the records to COUNTY, MARTIN shall destroy any duplicate public records that are exempt or confidential and exempt. If MARTIN keeps and maintains the public records, MARTIN shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to COUNTY upon request in a format that is compatible with the information technology systems of COUNTY.

A request for public records regarding this Agreement must be made directly to COUNTY, who will be responsible for responding to any such public records requests. MARTIN will provide any requested records to COUNTY to enable COUNTY to respond to the public records request.

Any material submitted to COUNTY that MARTIN contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, MARTIN must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge

attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If that a third party submits a request to COUNTY for records designated by MARTIN as Trade Secret Materials, COUNTY shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by MARTIN. MARTIN shall indemnify and defend COUNTY and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

**IF MARTIN HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO MARTIN'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 468-3501, JORHERNANDEZ@BROWARD.ORG, 1850 ELLER DRIVE, SUITE 603, FORT LAUDERDALE, FLORIDA 33316.**

9. Section 9.30 is hereby added to the Agreement to read as follows:

9.30 Verification of Employment Eligibility. MARTIN represents that MARTIN, and each Subcontractor has registered with and uses the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If MARTIN violates this section, COUNTY may immediately terminate this Agreement for cause and MARTIN shall be liable for all costs incurred by COUNTY due to the termination.

10. Exhibit A(1), attached hereto, is incorporated into and made a part of the Agreement. All references to Exhibit A in the Agreement, or to the "Services" or "Scope of Services," are deemed to refer to Exhibit A, attached to the Agreement, and Exhibit A(1), attached hereto.

11. Exhibit B(1), attached hereto, is incorporated into and made a part of the Agreement. All references to Exhibit B in the Agreement, or to the "Payment Schedule," are deemed to refer to Exhibit B, attached to the Agreement, and Exhibit B(1), attached hereto.

12. In the event of any conflict or ambiguity between this First Amendment and the Agreement, the Parties agree that this First Amendment shall control.

13. The Agreement, as amended hereby, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement and this First Amendment to the Agreement. Accordingly, the Parties agree that no deviation

from the terms of this First Amendment shall be predicated upon any prior representations or agreements, whether oral or written.

14. Preparation of this First Amendment has been a joint effort of the Parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more strictly against one of the Parties than any other.

15. Except as modified herein, all other terms and conditions of the Agreement remain in full force and effect.

16. This First Amendment may be executed in multiple originals, and may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment to the Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and MARTIN, signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:

\_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

BROWARD COUNTY, by and through  
its Board of County Commissioners

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 2021

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Port Everglades Department  
1850 Eller Drive, Suite 502  
Fort Lauderdale, Florida 33316  
Telephone: (954) 523-3404  
Telecopier: (954) 468-3690

By: Antonio Lozada 3/12/21  
Antonio Lozada (Date)  
Assistant County Attorney

By: Russell J. Morrison 3/12/21  
Russell J. Morrison (Date)  
Senior Assistant County Attorney

RJM:cr/dh  
MartinAssociates\_1stAmd\_030821 FINAL  
3/08/21  
15-3004.02

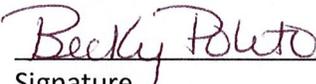
FIRST AMENDMENT TO THE AGREEMENT BETWEEN BROWARD COUNTY AND JOHN C. MARTIN ASSOCIATES, LLC, FOR ECONOMIC IMPACT ANALYSIS FOR PORT EVERGLADES (RLI# X1249133P1)

Consultant

WITNESSES:

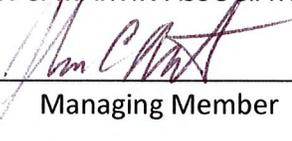
  
\_\_\_\_\_  
Signature

JEFFREY SWEENEY  
\_\_\_\_\_  
(Print/Type Name)

  
\_\_\_\_\_  
Signature

Becky Polito  
\_\_\_\_\_  
(Print/Type Name)

JOHN C. MARTIN ASSOCIATES, LLC

By   
\_\_\_\_\_  
Managing Member

John C Martin, Manager  
\_\_\_\_\_  
(Print/Type Name and Title)

10 day of March, 2021

**“EXHIBIT A(1)” SCOPE OF SERVICES 2021**

**ECONOMIC IMPACT ANALYSIS FOR PROFESSIONAL CONSULTANT SERVICES FOR  
BROWARD COUNTY’S PORT EVERGLADES DEPARTMENT**

Consultant previously developed both cargo and cruise economic impact models to measure the local, regional, and state economic impacts generated by maritime activity at Port Everglades. The models are commodity-type specific and designed to separately identify four quantifiable impacts of jobs, personal income, revenue, and taxes. The models are used to test the sensitivity of impacts to changes in tonnage levels, commodity mix, vessel calls, inland transportation modal mix, port and labor productivity and new construction and terminal expansion.

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**SCOPE OF SERVICES**

**TASK E: COMPLETION OF ONE COMPREHENSIVE ANNUAL LOCAL AND REGIONAL ECONOMIC IMPACT REPORT OF PORT EVERGLADES FOR FISCAL YEAR 2020**

- Consultant shall utilize the previously developed economic impact models to measure the local, regional, and state economic impacts generated by maritime activity at Port Everglades.
- Consultant shall provide a final report for Fiscal Year 20 titled, “The Local and Regional Economic Impacts of Port Everglades”, utilizing the economic impact models to measure the local, regional, and state economic impacts generated by maritime activity at Port Everglades.
- Consultant shall work closely with staff from the Port (via email, phone, and/or in-person meetings as may be needed by the Port) to address any items related to Task E.

**DELIVERABLES:**

Consultant shall submit a draft report to the Port for review. The Port will review the draft submitted by the consultant within 5 calendar days and provide comments (if any); consultant shall then incorporate the Port comments into the final report and deliver the final report within 5 calendar days for Port final review and acceptance. Consultant shall provide a comment and response matrix to address the comments from the draft report and conduct a teleconference to go over this matrix to clarify any remaining issues before submitting the final report.

Consultant shall submit a final report which shall consist of one 8½”x11” hard and electronic color copies in both .pdf and Microsoft Word formats.

**TIME FOR PERFORMANCE:**

- Final Economic Impact Report - Maximum 30 calendar days from NTP

**TASK F: CARGO AND CRUISE ECONOMIC IMPACT MODEL RUNS FOR INDIVIDUAL PORT PROJECTS – REMAINING CALENDAR YEAR 2021.**

- For the remaining calendar year 2021, Consultant shall run estimated economic impacts for any individual Port project selected by the Contract Administrator, including but not limited to Master/Vision Plan projects/grant-related projects/Capital Improvement Program (CIP) projects, that warrants economic analysis.

- Consultant shall ensure its availability to address any questions/comments by the Port (via email, phone, or in-person meetings) related to each economic impact model run.

**DELIVERABLES:**

Consultant shall submit a Final Report for all individual Port project runs within 3 calendar days (72 hours) of its receipt of a written Notice to Proceed.

**“EXHIBIT B(1)” – Payment Schedule**

Description	Invoiced	Retainage	Total Deliverable Amount
Deliverable/Task E: Completion of a comprehensive annual local and regional economic impact report of port everglades for FY20	100% upon completion	10%	\$4,001.45
Deliverable/Task F: Unlimited number of Cargo and Cruise Economic Impact Model Runs for individual Port Projects for the remaining of 2021	Invoiced as follows: <ul style="list-style-type: none"> <li>• January - March: \$1,757.47</li> <li>• April - June: \$1,757.47</li> <li>• July - September: \$1,757.47</li> <li>• October – December: \$1,757.47</li> </ul>	10%	\$7,029.88