

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: January 13, 2009 (X) Consent ( ) Regular  
( ) Workshop ( ) Public Hearing  
Department  
Submitted By: Environmental Resources Management  
Submitted For: Environmental Resources Management

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to:**

- A) approve** Contract with the Sea to Shore Alliance, Inc. (a non-profit corporation) in the not-to-exceed amount of \$114,755 for manatee aerial survey services expiring March 31, 2011; and,
- B) authorize** the County Administrator or his designee to sign all future time extensions, task assignments, certifications, and other forms associated with the Contract, and necessary minor amendments that do not change the scope of work or terms and conditions of the Contract.

**Summary:** A priority initiative of the Manatee Protection Plan which was approved in 2007 was to provide updated manatee aerial survey data to identify changes in manatee distribution and abundance in Palm Beach County waters. This Contract is for biweekly aerial surveys for two (2) years and includes data analysis, mapping and reporting. The results will be used to determine whether changes to the Plan are necessary when it undergoes formal review in 2014. The Contract will be funded from the Manatee Protection allocation effective upon execution by both parties and expires March 31, 2011. Countywide (SF)

**Background and Justification:** The Manatee Protection Plan identified locations where additional boat facilities should be constructed in the County and it is estimated that this could result in approximately 50% more non-single family slips constructed. To offset the potential increase in boats, the County committed to funding the Plan to provide funding for studies, outreach, increased law enforcement and habitat restoration. The last aerial manatee surveys were conducted in the early 1990's. Sea to Shore Alliance is a private, non-profit corporation whose principals have conducted manatee research for over 40 years and have been working in Palm Beach County for a number of years on various projects.

**Attachment:**

- 1. Contract

Recommended by: Richard E. Uvalde 12/18/08  
Department Director Date  
Approved by: [Signature] 1/8/09  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Capital Expenditures</b>	_____	_____	_____	_____	_____
<b>Operating Costs</b>	<u>32,612</u>	<u>57,377</u>	<u>24,766</u>	_____	_____
<b>External Revenues</b>	_____	_____	_____	_____	_____
<b>Program Income (County)</b>	_____	_____	_____	_____	_____
<b>In-Kind Match (County)</b>	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>32,612</u>	<u>57,377</u>	<u>24,766</u>	<u>0</u>	<u>0</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Is Item Included in Current Budget?</b>	Yes <u>X</u>		No _____		
<b>Budget Account No.:</b>	Fund <u>1226</u> Department <u>380</u> Unit <u>3252</u> Object <u>3401</u>		Program _____		

**B. Recommended Sources of Funds/Summary of Fiscal Impact**

\$114,755 Manatee Protection Allocation

**C. Department Fiscal Review:**

*JP*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and /or Contract Administrator Comments:**

*Jan Dool 1-5-09*  
 OFMB *1/5/09* *on 1/5/09*

*Jan J. Jacoby 1/16/09*  
 Contract Administrator  
*1/16/09*

**B. Legal Sufficiency:**

*Mark Toy*  
 Assistant County Attorney

This Contract complies with our contract review requirements.

*Risk Mgt. has agreed to waive the auto insurance requirements at the request of ECR.*

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

## **CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES**

This Contract is made as of the \_\_\_ day of \_\_\_\_\_, 2009, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and the Sea to Shore Alliance, Inc., 200 Second Avenue South, Suite 315, St. Petersburg, FL 33701, a not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. is 26-2568737.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

### **ARTICLE 1 - SERVICES**

The CONTRACTOR'S responsibility under this Contract is to provide professional/consultation services in the area of manatee aerial surveys of Palm Beach County waters, as more specifically set forth in the Scope of Work detailed in **Exhibit A**.

The COUNTY'S representative/liaison during the performance of this Contract shall be Richard E. Walesky, telephone no. 561-233-2400.

The CONTRACTOR'S representative/liaison during the performance of this Contract shall be Dr. James Powell, telephone no. 941-661-2941.

### **ARTICLE 2 - SCHEDULE**

The CONTRACTOR shall commence services upon receipt of the COUNTY's written Notice to Proceed and complete all services by March 31, 2011. Services shall be completed in accordance with their applicable schedules.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in **Exhibits A and B**.

### **ARTICLE 3 - PAYMENTS TO CONTRACTOR**

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total contract amount of One Hundred Fourteen Thousand, Seven Hundred Fifty Five Dollars (\$114,755). The CONTRACTOR will bill the COUNTY in accordance with the schedule of payment set forth in **Exhibit B** for services rendered toward the completion of the Scope of Work.
- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed

and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.

- C. "Out-of-pocket" expenses including, but not limited to, mailing charges, copying fees, telephone charges and miscellaneous supplies shall not be reimbursed under this Contract.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "final invoice" on the CONTRACTOR'S final/last billing to the COUNTY. This shall constitute CONTRACTOR'S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the CONTRACTOR.

#### **ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of this Contract by the CONTRACTOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside CONTRACTORS. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

#### **ARTICLE 5 - TERMINATION**

This Contract may be terminated by the CONTRACTOR upon sixty (60) days' prior written notice to the COUNTY's representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONTRACTOR. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CONTRACTOR. Unless the CONTRACTOR is in breach of this Contract, the CONTRACTOR shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONTRACTOR shall:

- A. Stop work on the date and to the extent specified.

- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

**ARTICLE 6 - PERSONNEL**

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereinunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR'S key personnel, as may be listed in **Exhibit A**, must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY'S representative before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the CONTRACTOR'S personnel (and all Subcontractors) while on County premises will comply with all COUNTY requirements governing conduct, safety and security.

**ARTICLE 7 - SUBCONTRACTING**

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract.

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

The CONTRACTOR is encouraged to seek small business enterprises (SBE) for participation in subcontracting opportunities. The Palm Beach County Board of County Commissioners has

established a minimum goal for SBE participation of 15% on all County solicitations. There is no required participation percentage for this Contract.

If the CONTRACTOR uses any SBE subcontractors on this project the following provisions shall apply:

The CONTRACTOR agrees to abide by all provisions of the Palm Beach County Code establishing the SBE Program, as amended, and understands that failure to comply with any of the requirements will be considered a breach of contract.

The CONTRACTOR understands that each SBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the SBE participation goal.

The CONTRACTOR shall provide the COUNTY with a copy of the CONTRACTOR's contract with any SBE subcontractor or any other related documentation upon request.

The CONTRACTOR understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of this Contract as it relates to the use of SBE firms.

The CONTRACTOR agrees to maintain all relevant records and information necessary to document compliance pursuant to Palm Beach County Code, Chapter 2, Article III, Sections 2-71 through 2-80.13 and any revisions thereto, and will allow the COUNTY to inspect such records.

#### **ARTICLE 8 - FEDERAL AND STATE TAX**

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

#### **ARTICLE 9 - AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this contract for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

## **ARTICLE 10 - INSURANCE**

- A. CONTRACTOR shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the contract.
- B. **Commercial General Liability** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CONTRACTOR shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** CONTRACTOR shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned automobiles. In the event CONTRACTOR doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONTRACTOR shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability** CONTRACTOR shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONTRACTOR shall provide this coverage on a primary basis.
- E. **Professional Liability** CONTRACTOR shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than **\$500,000** Per Occurrence. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than 3 years. CONTRACTOR shall provide this coverage on a primary basis.
- F. **Aircraft Liability** Aircraft Liability shall be maintained with respect to all aircraft owned, leased or operated by Sea to Shore, Inc. for bodily injury (including death) and property damage liability in an amount not less than **\$1,000,000** combined single limit per

occurrence. Coverage shall also include passenger liability in a limit not less than \$100,000 per passenger. Aircraft Liability shall endorse "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents" as Additional Insured.

- G. **Additional Insured** CONTRACTOR shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONTRACTOR shall provide the Additional Insured endorsements coverage on a primary basis.
- H. **Waiver of Subrogation** CONTRACTOR hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition to the policy specifically prohibiting such an endorsement, or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.
- I. **Certificate(s) of Insurance** Prior to execution of this Contract, CONTRACTOR shall deliver to the COUNTY'S representative as identified in Article 26, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate holder shall be "Palm Beach County, ATTN: ERM Director, 2300 N Jog Road, 4<sup>th</sup> Floor, West Palm Beach, FL 33411," or his successor/current address.
- J. **Umbrella or Excess Liability** If necessary, CONTRACTOR may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- K. **Right to Review** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or



endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

#### **ARTICLE 11 - INDEMNIFICATION**

CONTRACTOR shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Contract or due to the acts or omissions of CONTRACTOR.

#### **ARTICLE 12 - SUCCESSORS AND ASSIGNS**

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

#### **ARTICLE 13 - REMEDIES**

This Contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

#### **ARTICLE 14 - CONFLICT OF INTEREST**

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The CONTRACTOR further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONTRACTOR shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other

circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

#### **ARTICLE 15 - EXCUSABLE DELAYS**

The CONTRACTOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONTRACTOR'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

#### **ARTICLE 16 - ARREARS**

The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

#### **ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The CONTRACTOR shall deliver to the COUNTY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

#### **ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP**

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

#### **ARTICLE 19 - CONTINGENT FEES**

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

#### **ARTICLE 20 - ACCESS AND AUDITS**

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or

termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONTRACTOR'S place of business.

#### **ARTICLE 21 - NONDISCRIMINATION**

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation, gender identity or expression.

#### **ARTICLE 22 - AUTHORITY TO PRACTICE**

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

#### **ARTICLE 23 - SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 24- PUBLIC ENTITY CRIMES**

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and CONTRACTORS who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

#### **ARTICLE 25 - MODIFICATIONS OF WORK**

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall, in writing: (1) provide a

detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONTRACTOR shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the CONTRACTOR shall not commence work on any such change until such written amendment is signed by the CONTRACTOR and approved and executed on behalf of Palm Beach County.

#### **ARTICLE 26 - NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Director  
Department of Environmental Resources Management  
2300 N Jog Road, 4<sup>th</sup> Floor  
West Palm Beach, FL 33411

With copy to:

Palm Beach County Attorney's Office  
Attn: ERM Attorney  
301 North Olive Ave, 6<sup>th</sup> Floor  
West Palm Beach, FL 33401

If sent to the CONTRACTOR, notices shall be addressed to:

Dr. James Powell  
Sea to Shore Alliance, Inc.  
200 Second Avenue South, Suite 315  
St. Petersburg, FL 33701

#### **ARTICLE 27 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement

between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 25- Modifications of Work.

#### **ARTICLE 28 - CRIMINAL HISTORY RECORDS CHECK**

The CONTRACTOR shall comply with the provisions of Ordinance 2003-030, as amended from time to time, the Criminal History Records Check Ordinance ("Ordinance"), if CONTRACTOR'S employees or subcontractors are required under this contract to enter a "critical facility" as identified in Resolution R-2003-1274. The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030, as may be amended from time to time.

#### **ARTICLE 29 – REGULATIONS: LICENSING REQUIREMENTS**

The CONTRACTOR shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONTRACTOR is presumed to be familiar with all federal, state, and local laws, ordinances, codes, and regulations that may in any way affect the services offered.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

**ATTEST:**  
**Sharon R. Bock, Clerk & Comptroller**

**PALM BEACH COUNTY**  
**BOARD OF COUNTY COMMISSIONERS:**

By: \_\_\_\_\_  
**Deputy Clerk**

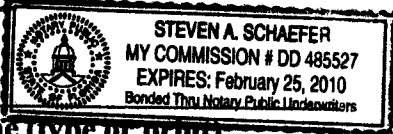
By: \_\_\_\_\_  
**John F. Koons, Chairman**


**WITNESS:**

**CONSULTANT:**

  
\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Sea to Shore Alliance, Inc.**  
**Company Name**

  
\_\_\_\_\_  
**Name (type or print)**

  
\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Dr. James A. Powell**  
**Typed Name**


\_\_\_\_\_  
**Executive Director**  
**Title**

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

By   
\_\_\_\_\_  
**Assistant County Attorney**

**(corp. seal)**

**APPROVED AS TO  
TERMS AND CONDITIONS**

By   
\_\_\_\_\_  
**Richard E. Walesky, Director**  
**Department of Environmental Resources Management**

## **EXHIBIT A**

### **SCOPE OF WORK PALM BEACH COUNTY MANATEE AERIAL SURVEYS**

#### **OBJECTIVES**

- Conduct aerial surveys to determine relative abundance and distribution of manatees in Palm Beach County.
- Compare historic to current manatee abundance and distribution patterns.
- Document incidental observations of dolphins and sea turtles.

#### **BACKGROUND**

Aerial distribution surveys are an important tool for determining the seasonal distribution and relative abundance of marine mammals, including manatees. Manatees are found throughout Palm Beach County, including marine, brackish and fresh water environments. Relative abundance and distribution varies seasonally. Comprehensive seasonal distribution and abundance patterns were last documented in Palm Beach County during a county/state survey effort in the early 1990s (MPP 2007). The current Palm Beach County Manatee Protection Plan (2007) recommends updating manatee aerial survey data to document any change that may have occurred in manatee use of the county in the past fifteen years.

Sea to Shore Alliance staff has prior knowledge of the Palm Beach County region, including boat-based and aerial surveys in conjunction with manatee feeding projects and synoptic surveys from the 1980s through 2006. Scientists for Sea to Shore Alliance have been involved with manatee research techniques for over 40 years. The study will be based on previous survey routes to provide comparability and include additional areas not previously surveyed in Palm Beach County as recommended by the Florida Fish & Wildlife Conservation Commission.

#### **METHOD**

Aerial surveys will be conducted every 2 weeks for 24 months totaling 48 flights. Standard aerial survey techniques will be utilized. Flights will be conducted in a Cessna 172 (four-seat, high-winged aircraft) at an altitude of 750 ft and an air speed of 80 mph. The altitude and airspeed chosen for the survey are based on a consensus opinion that there is no significant loss in sightability of manatees at 750' compared to an altitude of 500'. The additional safety margin to recover from a stall condition warrants the higher altitude. Flights will be conducted by pilots very experienced with manatee surveys and research techniques. Pilots will have a minimum of 1,500 of total flight time. Observers will be trained and experienced in manatee aerial survey techniques and data collection. Analysis and synthesis of data will be under the supervision of highly experienced and qualified senior manatee scientists.

The flights paths are designed to maximize manatee counts by concentrating on shallow



nearshore waters, where manatees and seagrasses are located. Survey flights will follow the original flight path from the previous manatee abundance and distributional surveys in order to facilitate comparisons (see Attachment A). Additional survey areas will be included as per FWC recommendations. Total survey time is estimated to be 5.5-6 hours depending on the number of sightings and amount of time spent circling a single sighting and permissions to enter controlled airspace by FAA controllers. The final surveys may be modified after the results of the first survey. The final survey route will be finalized in collaboration with Palm Beach County.

For the surveys, the primary observer will occupy the right front seat and a secondary observer, when available, will occupy the right rear seat. When manatees are sighted, the aircraft will circle until researchers are able to obtain the highest count of animals in each group. Groups of manatees will be photographed and those photographs will be linked to a GPS location for later analysis and scrutiny. Manatee and dolphin locations, numbers (adults and calves), and behaviors (resting – bottom, surface; feeding; direction of travel; cavorting) will be manually recorded on orthophoto maps of the study area and later transcribed to the electronic data base. Sightings of spotted eagle rays and sea turtles in addition to any other observations of interest or concern will be noted, e.g. new seagrass scarring, siltation, point discharge, groundings, manatee corpses, security etc. Survey conditions, including weather, cloud cover, sea-state condition, tide, estimates of water clarity will be collected at the time of the survey. Survey track lines will be automatically recorded on a GPS. Following the survey, data will be entered into a Microsoft Access or Excel database and incorporated into a Geographic Information System (GIS) for spatial analysis. All data in any form are the property of Palm Beach County and will be included with semi-annual and annual reports and also made available to FWC upon instructions by the County.

Data collected from these surveys will be used to investigate temporal and spatial distribution, relative abundance, behavior, and habitat use of manatees throughout the county. The track line will follow that of the previous surveys in order to allow comparable results by unit effort to the previous work. The monthly surveys will allow analyses of changes in distribution and abundance between months, seasons, annually for the two years of the study and previous surveys conducted in the 1990s.

### **DELIVERABLES AND INVOICES**

Monthly reports shall be submitted with each invoice and are due the 15<sup>th</sup> of the month following data collection and will consist of a brief 1 page summary of activities and any highlights or unusual observations. Semi-annual reports will be produced and shall include a Microsoft Access or Excel database containing all manatee sightings including number (adults and calves), behavior, and location. Incidental dolphin and sea turtle sightings and other observational data will also be summarized. The reports will include graphs and tables summarizing data. GIS maps/projects including the flight path and all manatee sightings by month, by season, and overall will also be provided. Mapped manatee sightings will include behaviors and lifestage (adults,calves).

Annual report will include all data outlined above, in addition to analysis of abundance and distribution seasonally and monthly, percentage of calves, percentage of behaviors, habitat utilization, and other items deemed useful by the county.

The final report shall be cumulative and summarize all data collected and include a:

- Comparison to previous manatee studies in Palm Beach County to determine substantial changes,
- Plot manatee locations in relation to speed zones and SAV,
- Recommendations for manatee protection and conservation in Palm Beach County based upon results of the study.

#### **SCHEDULE**

The contract duration shall be 26 months which provides for 24 months of field work and 2 months to complete the final report. The proposed work schedule is:

Pre-work coordination meeting- February 2009

Flights- February 2009- January 2011

#### **REPORTS**

The reporting schedule shall be:

Monthly- March 2009- February 2011

Semi-annual- August 2009, August 2010

Annual – February 2010

Final- March 31, 2011

**EXHIBIT B**

**SCHEDULE OF PAYMENTS**

The Scope of Work to be completed by CONTRACTOR as defined in **Exhibit A** consists of specific completion tasks which shall be clearly identified on a task-by-task basis upon submission to the COUNTY of certain deliverables as expressly indicated below. Compensation for the work tasks stated herein shall be in accordance with the following Schedule of Payments:

Deliverables shall be defined as reports, datasheets, data files, etc as described in **Exhibit A**.

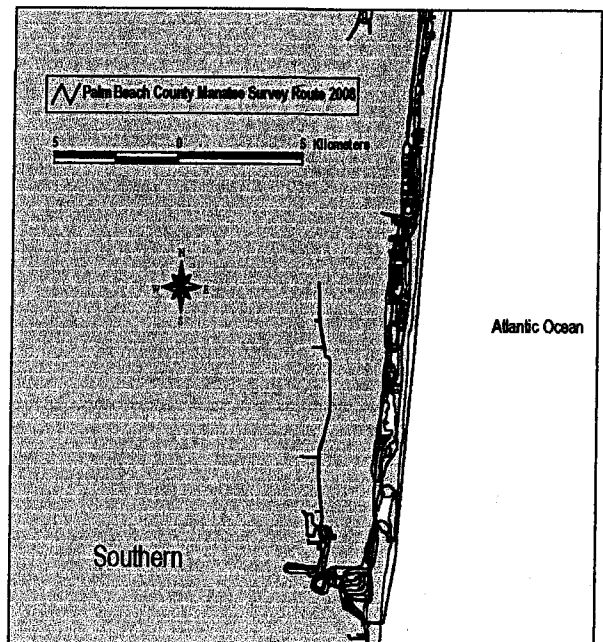
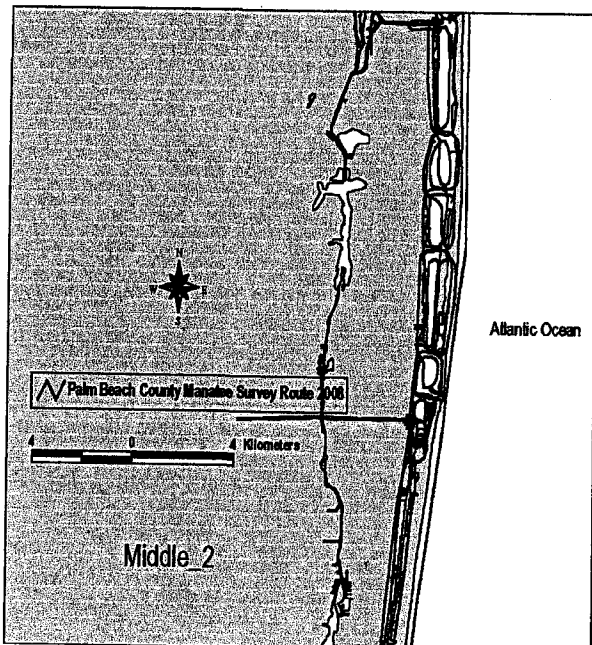
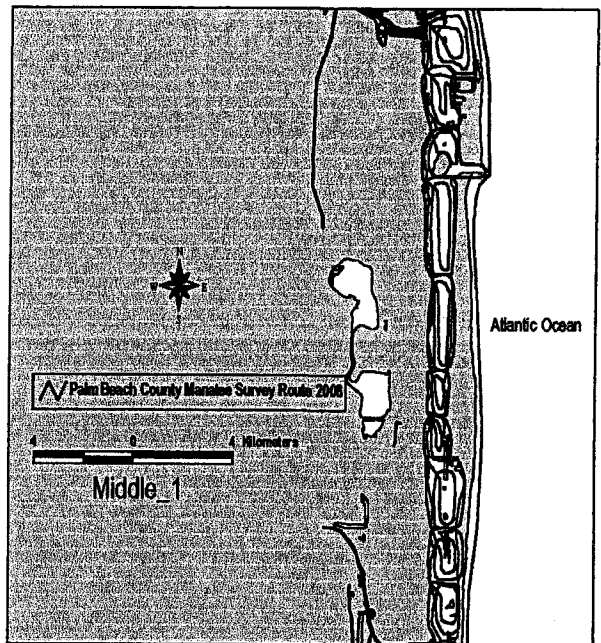
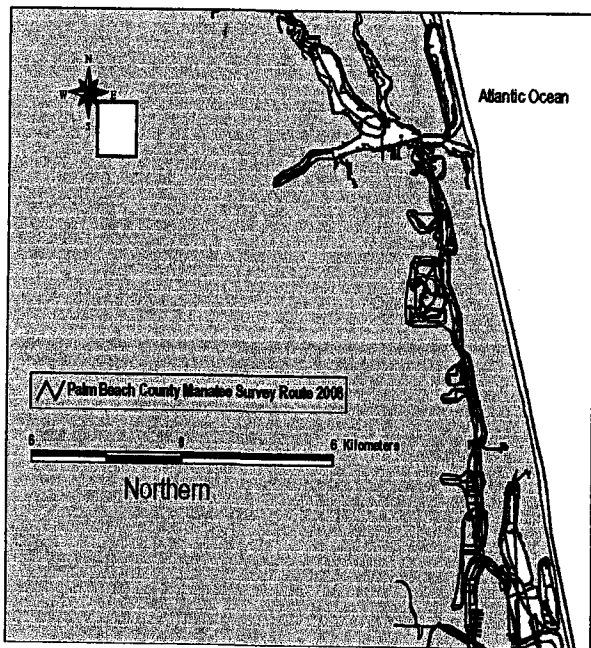
**Reports**

Task(s) to be Completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than 15<sup>th</sup> of the following month

Monthly reports (24) -	\$4,516 each x 24 = \$108,384
Semi-annual reports (2) -	\$1,000 each x 2 = \$ 2,000
Annual (1) and final (1) reports -	\$2,185.50 ea x 2 = \$ 4,371
Total Compensation -	\$114,755

Attachment A. Survey Route



**CERTIFICATE  
Sea to Shore Alliance, Inc.**

The undersigned hereby certifies that the following are true and correct statements:

1. That James Powell is the Secretary of Sea to Shore Alliance, Inc. a corporation organized and existing in good standing under the laws of the State of Florida hereinafter referred to as the "Corporation", and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporate as the 20<sup>th</sup> day of December, 2008, in accordance with the laws of the State of the state of incorporation of the Corporation, the Articles of Incorporation and the By-laws of the Corporation.

**RESOLVED**, that the Corporation shall enter into that certain Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation, a copy of which is attached hereto, and be it


**FURTHER RESOLVED**, that James A. Powell, the Executive Director of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement.

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effect as of the date hereof.

3. That the Corporation is in good standing under the laws of the State of Florida or its state of incorporation, if other, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such Agreement.

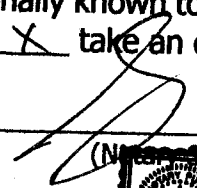
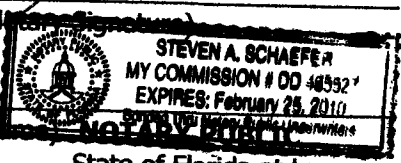
**IN WITNESS WHEREOF**, the undersigned has set his hand and affixed the Corporate Seal of the Corporation the 20 day of December, 2008.

(CORPORATE SEAL)

  
\_\_\_\_\_  
(Signature)

James A Powell Secretary/Executive Director  
\_\_\_\_\_  
(Print Signatory's name & title)

**SWORN TO AND SUBSCRIBED** before me this 20<sup>th</sup> day of DECEMBER, 2008, by the Secretary of the aforesaid Corporation, who is personally known to me OR who produced \_\_\_\_\_ as identification and who did  take an oath.

  
\_\_\_\_\_  
(Print Notary's Name) **STEVEN A. SCHAEFER**  
  
State of Florida at Large  
My Commission Expires: \_\_\_\_\_

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/24/2008

PRODUCER (954)943-5050 FAX: (954)942-6310  
Frank H. Furman, Inc.  
1314 East Atlantic Blvd.  
P. O. Box 1927  
Pompano Beach FL 33061

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED  
Sea to Shore Alliance, Inc.  
200 2nd Avenue, #315  
St. Petersburg, FL 33701

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: American Safety Indemnity  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR/ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY	TBD	01/01/2009	01/01/2010	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Professional Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 Professional Included
		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC AGG \$
		EXCESS/UMBRELLA LIABILITY				<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER
						WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
 Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents is included as Additional Insured, per Form ENV010090607-Additional Insured Coverage Endorsement, as required by written contract. Waiver of Subrogation is included in favor of certificate holder, per Form ENV010311107-Endorsement-Expanded Waiver of Subrogation, as required by written contract.

CERTIFICATE HOLDER

CANCELLATION

mcoppola@pbcbgov.org  
Palm Beach County  
Attn: ERM Director  
2300 N. Jog Road  
4th Floor  
West Palm Beach, FL 33411

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
 AUTHORIZED REPRESENTATIVE  
 Frank Furman, Jr/KD *Frank Furman, Jr.*

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: JUL 30 2008

SEA TO SHORE ALLIANCE INC  
200 2ND AVE S STE 315  
ST PETERSBURG, FL 33701

Employer Identification Number:  
26-2568737  
DLN:  
17053199327008  
Contact Person:  
RENEE RAILEY NORTON ID# 31172  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
June 30  
Public Charity Status:  
170(b)(1)(A)(vi)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
May 1, 2008  
Contribution Deductibility:  
Yes  
Advance Ruling Ending Date:  
June 30, 2012  
Addendum Applies:  
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. During your advance ruling period, you will be treated as a public charity. Your advance ruling period begins with the effective date of your exemption and ends with advance ruling ending date shown in the heading of the letter.

Shortly before the end of your advance ruling period, we will send you Form 8734, Support Schedule for Advance Ruling Period. You will have 90 days after the end of your advance ruling period to return the completed form. We will then notify you, in writing, about your public charity status.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 1045 (DO/CG)

## CERTIFICATE OF INSURANCE

This certificate is provided for purposes of information only and does not grant any rights to the Certificate Addressee

Date: 12/26/2008

This is to certify to: **Sea to Shore Alliance Inc.**  
4388 Hidden River Road  
Sarasota, FL 34240

That the following policy has been issued to:  
Named Insured: **James A. Powell and Skyway Photo Inc.**  
4388 Hidden River Road  
Sarasota, FL 34240

Policy Number: **AVT502035-2008-00**

Issued through a policy issuing company of Britt-Paulk Aviation Underwriters, a division of Britt Paulk Insurance Agency, Inc.

Policy Period: From **10/04/2008 – 10/04/2009**

<u>Coverage</u>	<b>AIRCRAFT LIABILITY</b>	<u>Limits of Liability</u>
Combined Single Limit Bodily Injury (Including Passenger Bodily Injury) and Property Damage.		\$1,000,000 Each Occurrence \$ 100,000 Each Passenger

### AIRCRAFT PHYSICAL DAMAGE

<u>Year, Make and Model of Aircraft</u>	<u>Regis. Number</u>	<u>Insured Value</u>
2007 Cessna 172S	N14814	\$254,400
Coverage: Ground and Flight Basis	Deductibles:	\$ 250 In Motion. \$ 50 Not In Motion

The insurance provided by the policies described herein is subject to all the terms, conditions and exclusions of the policy. This certificate does not extend, amend or otherwise alter the coverages provided by the policy.

AXA Insurance Company

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

 **Davidson & Derron Insurance Inc.**  
442 Castle Shannon Boulevard  
Pittsburgh, Pennsylvania 15234-1406  
Phone: 412-571-1700  
1-800-864-4220  
E-mail: info@ddiair.com

**AIA**  
AVIATION INSURANCE  
ASSOCIATION



**ADDITIONAL INSURED ENDORSEMENT**

This policy is amended as follows;

(Only the clause(s) indicated by an "X" shall apply )

- The scheduled persons or organizations are included as additional insured.
- The scheduled persons or organizations are the registered owner of and are included as additional insured.
- The scheduled persons or organizations are included as additional insured but only as respects liability coverages.
- The scheduled persons or organizations are included as additional insured under liability coverages, but only as respects operations of the **named insured**.
- The scheduled persons or organizations are included as additional insured but only as respects operations of the **named insured**.

Workmanship Exclusion - The insurance extended by this endorsement shall not apply to, and no person or organization named in the schedule shall be insured for **bodily injury** or **property damage** which arises from the design, manufacture, modification, repair, sale, or servicing of the **aircraft** by that person or organization.

Schedule:

Name

Sea to Shore Alliance Inc.

All other provisions of this policy remain the same.

This endorsement becomes effective 10/04/2008 to be attached to and hereby made a part of:

Policy No. AVT502035-2008


Issued to JAMES A. POWELL AND SKYWAY PHOTO INC.

**AXA Insurance Company**

Endorsement No. 5

Date of Issue 12/26/2008

By

  
(Authorized Representative)

AIC102m (1/07)