

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: May 4, 2010

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) ratify Amendment No. 7 to Grant Agreement No. 99PB1 (R2000-0082) with the Florida Department of Environmental Protection (FDEP) for the South Lake Worth Inlet Management Plan to extend the Agreement until December 31, 2010; and

B) authorize the County Administrator, or his designee, to sign all future time extensions, task assignments, certifications and other forms associated with this document, and necessary minor amendments that do not change the scope of work or terms and conditions of the document.

Summary: Amendment No. 7 to Agreement No. 99PB1 (R2000-0082) extends the term of the Agreement to December 31, 2010 with no fiscal impact. The Amendment also requires prior written approval from FDEP for changes in project task costs, an executed notice of completion for disbursement of retainage, written notice of changes in contact information, completion of a new audit form, submission of bid form for successful bidder and solicitation documents, and specifies the handling of minor modifications. District 4 (SF)

Background and Justification: On January 11, 2000, the Board approved FDEP Grant Agreement No. 99PB1 for \$321,068 for engineering, construction, and monitoring activities associated with implementation of the South Lake Worth Inlet Management Plan. Amendment No.1, approved on February 27, 2001 (R2001-0319), provided additional State funding in the amount of \$571,432. Amendment No. 2, executed on June 4, 2002 (R2002-0915), added an additional \$25,000 in State funding. Amendment No. 3, executed on December 17, 2002 (R2002-2278), extended the term of the Agreement to February 28, 2008 and updated the language and attachments in the Agreement.

(Continued on page 3.)

Attachments:

1. Grant Amendment No. 7
2. Grant Amendment No. 6 (pages 1-9)

Recommended by:

Richard E. Walsby
Department Director

4/6/10
Date

Approved by:

[Signature]
County Administrator

4/15/10
Date

(Continued from page 1.) Amendment No. 4, executed on May 20, 2003 (R2003-0714), increased State funding by \$1,093,187. Amendment No. 5, executed on January 15, 2008 (R2008-0010), increased State funding by \$3,620,000 and extended the term of the Agreement to December 31, 2009. Amendment No. 6, executed on January 13, 2009 (R2009-0111), increased State funding by \$238,925. Maintenance dredging was completed in March 2008. Construction of the new sand transfer plant and Bird Island seawall and rehabilitation of the north and south jetties began in Spring 2009. Work on the South Lake Worth Inlet Management Plan is still ongoing and is expected to be completed by December 31, 2010. Amendment No. 7 provides the County with additional time to complete the project. Amendment No. 7 was inadvertently signed by the Director of Environmental Resources Management although it should have gone to the Board for approval. This agenda item ratifies Amendment No. 7.

AMENDMENT No: 7
DEP AGREEMENT No: 99PB1
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF BEACHES AND COASTAL SYSTEMS
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
STATE OF FLORIDA
AMENDMENT TO GRANT AGREEMENT FOR
SOUTH LAKE WORTH IMP IMPLEMENTATION

THIS AGREEMENT entered into on the 13th day of January, 2000, and amended on the 2nd day of April, 2001, and on the 4th day of June, 2002, and on the 17th day of December, 2002, and on 20th day of May, 2003, and on 15th day of January, 2008, and on the 13th day of January, 2009 between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "DEPARTMENT") and PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as the "LOCAL SPONSOR"), is hereby amended as follows:

WHEREAS, the LOCAL SPONSOR has requested and the DEPARTMENT has agreed to extend this Agreement; and,

WHEREAS, other changes to the Agreement are necessary.

NOW, THEREFORE, the parties hereto agree as follows:

- Paragraph 2 is hereby deleted in its entirety and replaced with the following:

This Agreement shall begin on the last date executed and end on December 31, 2010. If work identified in the approved Project Work Plan is completed prior to the date shown in the first sentence of this paragraph, the modification will be reduced to writing in an amendment to this Project Agreement.

- Paragraph 8 the following language is hereby added to the Agreement following Table 1:

Prior written approval from the DEPARTMENT's Grant Program Administrator shall be required for changes between approved Project Tasks costs. Informal changes by the DEPARTMENT's Grant Program Administrator may not exceed 10% of the total budget amount and may not change the Total Project Costs. The DEPARTMENT's Grant Program Administrator will transmit a copy of the written approval and revised budget to the DEP Contracts Disbursements Office for inclusion in the Agreement file. Changes to Project Task costs greater than 10% will require a formal amendment to the Agreement. Any change to the Total Project Costs require formal amendment.

- Paragraph 13 is hereby revised to replace the fourth sentence as follows:

The cumulative amount retained for each eligible Task Scope of Work shall be disbursed to the LOCAL SPONSOR upon notification to the DEPARTMENT with an executed notice of completion (Attachment D-3) and after the DEPARTMENT has certified that the LOCAL SPONSOR has complied with all the terms and conditions of the Agreement, all applicable DEPARTMENT permits and the applicable scope of work for said item.

- Paragraph 21 the following language is hereby added to the Agreement:

Any changes to the contact information shown above must be reduced to writing in the form of a Change Order to this Agreement.

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- Paragraph 24 is hereby revised to add the following as subparagraph C:
 - C. In addition, the Grantee agrees to complete and submit the **Certification of Applicability to Single Audit Act Reporting, Attachment F**, attached hereto and made a part hereof, within four (4) months following the end of the Grantee's fiscal year. Attachment F should be submitted to the DEPARTMENT's Grants Development and Review Manager at 3900 Commonwealth Boulevard, Mail Station 93, Tallahassee, Florida 32399-3000. The Grants Development and Review Manager is available to answer any questions at (850) 245-2361.

- Paragraph 34 is hereby deleted in its entirety and replaced with the following:

The LOCAL SPONSOR shall also provide the bid form for the successful bidder. The LOCAL SPONSOR shall select eligible consultants licensed to offer services in the State of Florida for studies, design and permitting and monitoring tasks in accordance with Chapter 287, F. S. Upon the DEPARTMENT's request, the LOCAL SPONSOR shall furnish copies of the respective solicitation documents. Solicitation documents include, but are not limited to, the solicitation and responses thereto, the bid tabulations, and the resulting contract(s), including a detailed scope of work.

- Paragraph 37 is hereby deleted in its entirety and replaced with the following:

The DEPARTMENT may at any time, by written order designated to be a change order, make any change in the Grant Manager information or task timelines within the current authorized Agreement period. All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change, which causes an increase or decrease in the Grantee's cost or time, shall require formal amendment to this Agreement. Minor modifications which will be handled with a change order include notification of a change in Contract/Project Manager, modification of deliverable due dates when such change does not involve a contract extension, and modifying the scope of services when such modification would not involve a decrease/increase in price or an extension of the contract performance period.

- Attachment F as attached hereto is hereby added to the Agreement.

In all other respects, the Agreement of which this is an Amendment, and attachments relative thereto, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have caused these presents to be duly executed, the day and year last written below.

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

By: Richard E. Wolub
Title: *Director of Environmental Resource Management

Date: 1/4/10

FEID No. 59-6000785

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: Michelle K. Bunt
Secretary or designee

Date: 12/28/09

Dene Vanhaugh
Department of Environmental Protection
Grant Program Administrator

APPROVED as to form and legality:

[Signature]
Department of Environmental Protection
Attorney

Grantee's Attorney

*If someone other than the Director of Environmental Resource Management signs this Agreement, a resolution, statement or other documentation authorizing that person to sign the Agreement on behalf of the County/City must accompany the agreement.

List of Attachments/Exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
Attachment	F	Certification of Applicability to Single Audit Act Reporting (1 Page)

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ATTACHMENT F

CERTIFICATION OF APPLICABILITY TO SINGLE AUDIT ACT REPORTING

Grantee's Name: _____

Grantee's Fiscal Year Period: FROM: _____ TO: _____

Total State Financial Assistance Expended during Grantee's most recently completed Fiscal Year: \$ _____

Total Federal Financial Assistance Expended during Grantee's most recently completed Fiscal Year: \$ _____

Please identify grants to be included in the Single Audit that are provided by the Department of Environmental Protection

<u>CSFA#</u>	<u>CFDA#</u>	<u>DEP GRANT AGREEMENT NUMBER</u>
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CERTIFICATION STATEMENT:

I hereby certify that the above information is correct:

Name

Date

Title

AMENDMENT No: 6
DEP AGREEMENT No: 99PB1
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF BEACHES AND COASTAL SYSTEMS
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
STATE OF FLORIDA
AMENDMENT TO GRANT AGREEMENT FOR
SOUTH LAKE WORTH IMP IMPLEMENTATION

R 2009 0111 JAN 13 2009

THIS AGREEMENT entered into on the 13th day of January, 2000, and amended on the 2nd day of April, 2001, and on the 4th day of June, 2002, and on the 17th day of December, 2002, and on 20th day of May, 2003, and on 15th day of January, 2008, between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "DEPARTMENT") and PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as the "LOCAL SPONSOR"), is hereby amended as follows:

- Paragraphs 1 - 38 are hereby revised to read as follows:
 1. The DEPARTMENT does hereby retain the LOCAL SPONSOR to implement the beach erosion control project known as the SOUTH LAKE WORTH IMP IMPLEMENTATION, (hereafter referred to as the PROJECT), as defined in Attachment A-4 (Project Work Plan), attached hereto and made a part hereof, and the LOCAL SPONSOR does hereby agree to perform such services as are necessary to implement the PROJECT in accordance with the terms and conditions set forth in this Agreement, and all attachments and exhibits named herein that are attached hereto and incorporated by reference. For purposes of this Agreement, the terms "Contract" and "Agreement" are used interchangeably, and the terms "Grantee", "Recipient" and "Local Sponsor" are used interchangeably.
 2. This Agreement shall begin on the last date executed and end on December 31, 2009.
 3. The LOCAL SPONSOR shall perform the services in a proper and satisfactory manner as determined by the DEPARTMENT.
 4. Any and all equipment, products or materials necessary to perform these services, or requirements as further stated herein, shall be supplied by the LOCAL SPONSOR.
 5. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature and subject to the release of funds appropriated to the DEPARTMENT.
 6. The LOCAL SPONSOR shall implement the PROJECT and complete said PROJECT upon the terms and conditions set forth in this Agreement and all present and future requisite authorizations and environmental permits. The PROJECT consists of implementation of the South Lake Worth Inlet Management Plan that includes measures to mitigate the impacts of the Inlet. The plan recommends bypassing beach compatible dredge material to down drift beaches within the area of inlet influence (R152-R164), expanding the existing sand trap to facilitate bypassing, maintenance of the sand transfer plant, and the implementation of a comprehensive monitoring program. The life of the PROJECT is defined as ten (10) years commencing upon execution of this Agreement and re-initiated upon execution of subsequent amendments to this Agreement for additional funding. The parties expressly agree that the provisions of this paragraph shall survive and be enforceable beyond the expiration date of this Agreement.

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DEP Agreement No. 99PB1, Amendment No. 6, Page 1 of 9

7. The LOCAL SPONSOR shall develop a detailed Scope of Work for each eligible PROJECT task, as specified in Table 1 below. It is understood and agreed that the detailed Scope of Work shall include a narrative description of each task, a corresponding detailed budget and a project schedule. Written authorization to initiate the scope of work for each task must be obtained from the DEPARTMENT prior to the initiation of said task. The DEPARTMENT may require at least ten percent (10%) of the total cost share for a specified task be forfeited for failure to obtain prior written authorization from the DEPARTMENT for a specific task.
8. The DEPARTMENT and the LOCAL SPONSOR agree that the estimated costs of the PROJECT are identified in Table 1 below:

TABLE 1

Task #	Eligible Project Tasks	Estimated Project Costs			
		Federal	DEP	Local	Total
1.0	Design and Permitting	\$0	\$224,618	\$224,618	\$449,236
2.0	Construction				
2.1	Interior Sand Trap Dredging	\$0	\$573,724	\$573,724	\$1,147,448
2.2	Sand Transfer Plant Reconstruction	\$0	\$5,010,312	\$5,010,312	\$10,020,624
3.0	Monitoring	\$0	\$60,958	\$60,958	\$121,916
	TOTAL PROJECT COSTS	\$0	\$5,869,612	\$5,869,612	\$11,739,224

9. The DEPARTMENT has determined that 100 percent of the PROJECT cost is eligible for state cost sharing. Therefore, the DEPARTMENT's financial obligation shall not exceed the sum of \$5,869,612 for this PROJECT or up to 50 percent of the non-federal project cost, if applicable, for the specific eligible PROJECT items listed above, whichever is less. To the extent applicable, it is understood and agreed that for portions of the PROJECT which are located within lands owned and managed by the DEPARTMENT's Division of Recreation and Parks, no cost share for construction activities shall be required of the LOCAL SPONSOR, and the PROJECT costs for such portions shall be paid by the DEPARTMENT.
10. The DEPARTMENT and the LOCAL SPONSOR agree that any and all activities associated with the PROJECT that are not shown in Table 1 are the responsibility of the LOCAL SPONSOR and are not a part of this Agreement. The LOCAL SPONSOR agrees that any costs for the specific eligible project items that exceed the estimated project costs for that item shall be the responsibility of the LOCAL SPONSOR. Any modifications to the estimated TOTAL PROJECT COSTS shall be provided through formal amendment to this Agreement.
11. The LOCAL SPONSOR shall perform as an independent contractor and not as an agent, representative, or employee of the DEPARTMENT.

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12. In consideration for the satisfactory completion of the eligible work, identified in Attachment A-4 and approved by the DEPARTMENT, performed by the LOCAL SPONSOR under the terms of this Agreement, the DEPARTMENT agrees to compensate the LOCAL SPONSOR on a cost reimbursement basis for services rendered. All requests for reimbursement shall be made in accordance with Attachment B-4 (Contract Payment Requirements), attached hereto and made a part hereof, and State guidelines for allowable costs found in the Department of Financial Services' Reference Guide for State Expenditures at <http://www.fldfs.com/aadir/reference%5Fguide>. The LOCAL SPONSOR shall submit a request for reimbursement of funds on the forms provided as Attachment C-4 (Request For Payment, PARTS I – III), attached hereto and made a part hereof. These forms may be submitted on a quarterly basis. The term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30, and December 31; the request shall be submitted no later than thirty (30) days following the completion date of the quarterly reporting period of each year in which the project is underway. These forms shall be certified as accurate by the LOCAL SPONSOR'S Project Manager and the LOCAL SPONSOR'S Project Financial Officer and submitted to the DEPARTMENT as a payment request. All requests for the reimbursement of travel expenses shall be based on the travel limits established in Section 112.061, Florida Statutes. A final invoice shall be due no later than thirty (30) days following the completion date of this Agreement. The DEPARTMENT will not release funds for construction activities until such time as all requisite authorizations, environmental permits, and variances, including those required pursuant to Chapters 161, 253, 258 and 373, Florida Statutes, have been obtained. In such cases where no reimbursement is sought for a given quarter, all applicable portions of Part III of Attachment C-4, Project Progress Report must be completed and submitted.
13. The DEPARTMENT'S Bureau of Beaches and Coastal Systems shall have thirty (30) days after receipt of each billing to determine that the work has been accomplished in accordance with the terms and conditions of this Agreement prior to approving the billing for payment. It is understood and agreed that any request for reimbursement that requires the DEPARTMENT to request additional information of the LOCAL SPONSOR shall stop time for the DEPARTMENT'S review period and the clock will not resume until such information is received as requested by the DEPARTMENT. Upon approval of the payment request, the DEPARTMENT shall disburse the funds due to the LOCAL SPONSOR less ten (10) percent, which shall be retained on account. The cumulative amount retained for each eligible scope of work shall be disbursed to the LOCAL SPONSOR after the DEPARTMENT has certified that the LOCAL SPONSOR has complied with all the terms and conditions of the Agreement, all applicable DEP permits and the applicable scope of work for said item. The DEPARTMENT will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to this Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. When requested, the LOCAL SPONSOR must provide the information described in this paragraph within thirty (30) days of such request. If applicable, the LOCAL SPONSOR may also be required to submit a cost allocation plan to the DEPARTMENT in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
14. For the duration of this Agreement, the LOCAL SPONSOR shall submit to the DEPARTMENT'S Project Manager on a quarterly basis, Attachment C-4, Part III, Project Progress Report, as updates to a project schedule, no later than thirty (30) days following the completion date of the quarterly reporting period identified in paragraph twelve (12). Schedules may be required to be submitted electronically in an .MPP or tab delimited .TXT format. Information provided shall be the best available and shall represent the most accurate forecast of future events. Specific information to be included in the quarterly report: tasks to be completed, start and finish dates, task duration, and actual start and finish dates with actual task duration.
15. Upon completion of the PROJECT, the LOCAL SPONSOR shall submit to the DEPARTMENT a certification of completion, attached hereto as Attachment D-3 (Project Completion Certification). A final project certification inspection shall be made by the DEPARTMENT within sixty (60) days after the PROJECT is certified complete by the LOCAL SPONSOR.

16. The LOCAL SPONSOR shall, at a minimum, comply with monetary limits for competitive acquisition of both materials and services as required by Chapter 287, and Chapter 161.101(17), Florida Statutes, which are expressly made a part of this Agreement and incorporated herein by reference as if fully set forth.
17. The applicable provisions of Chapter 161, Florida Statutes, entitled "Beach and Shore Preservation", and any rules promulgated therefrom, are expressly made a part of this Agreement and are incorporated herein by reference as if fully set forth.
18. The LOCAL SPONSOR's Project Manager for all matters is Richard E. Walesky, Phone: 561/233-2400. The DEPARTMENT's Project Manager for all technical matters is Benjamin R. Buda, III, Phone: 850/922-7721 and the DEPARTMENT's Grant Program Administrator for all administrative matters is Dena VanLandingham, Phone: 850/922-7711 or their successor(s). All matters shall be directed to the appropriate persons for action or disposition.
19. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
20. The DEPARTMENT may terminate this Agreement at any time in the event of the failure of the LOCAL SPONSOR to fulfill any of its obligations under this Agreement. Prior to termination, the DEPARTMENT shall provide ten (10) days written notice of its intent to terminate and shall provide the LOCAL SPONSOR an opportunity to consult with the DEPARTMENT regarding the reason(s) for termination. The DEPARTMENT may terminate this Agreement without cause and for its convenience by giving thirty (30) days written notice to the LOCAL SPONSOR. Notice shall be sufficient if delivered personally or by certified mail to the address set forth in this Agreement.
21. Any and all notices shall be delivered to the parties at the following addresses:

LOCAL SPONSOR

Richard E. Walesky
Palm Beach County Board of County Commissioners
Department of Environmental Resource Management
2300 North Jog Road
West Palm Beach, Florida 33411-2743
(561) 233-2400

DEPARTMENT

Dena VanLandingham, Grants Program Administrator
Department of Environmental Protection
Bureau of Beaches and Coastal Systems
3900 Commonwealth Blvd., MS 300
Tallahassee, Florida 32399-3000
(850) 922-7711
Dena.vanlandingham@dep.state.fl.us

22. This Agreement may be unilaterally canceled by the DEPARTMENT for refusal by the LOCAL SPONSOR to allow public access to all documents, papers, letters, or other material made or received by the LOCAL SPONSOR in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.
23. The LOCAL SPONSOR shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. The DEPARTMENT, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five years following Agreement completion. In the event any work is subcontracted, the LOCAL SPONSOR shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

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24. A. In addition to the requirements of the preceding paragraph, the LOCAL SPONSOR shall comply with the applicable provisions contained in **Attachment E-3 (Special Audit Requirements)**, attached hereto and made a part hereof. **Exhibit 1 to Attachment E-3** summarizes the funding sources supporting the Agreement for purposes of assisting the LOCAL SPONSOR in complying with the requirements of **Attachment E-3**. A revised copy of **Exhibit 1** must be provided to the LOCAL SPONSOR for each amendment that authorizes a funding increase or decrease. If the LOCAL SPONSOR fails to receive a revised copy of **Exhibit 1**, the LOCAL SPONSOR shall notify the Department's Grant Program Administrator at 850/922-7711, to request a copy of the updated information.
- B. The LOCAL SPONSOR is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The LOCAL SPONSOR shall consider the type of financial assistance (federal and/or state) identified in **Attachment E-3, Exhibit 1** when making its determination. For federal financial assistance, the LOCAL SPONSOR shall utilize the guidance provided under OMB Circular A-133, Subpart B, Section __.210 for determining whether the relationship represents that of a sub recipient or vendor. For state financial assistance, the LOCAL SPONSOR shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

<https://apps.fldfs.com/fsaa>

The LOCAL SPONSOR should confer with its chief financial officer, or audit director or contact the DEPARTMENT for assistance with questions pertaining to the applicability of these requirements.

25. In accordance with Section 216.347, Florida Statutes, the LOCAL SPONSOR is hereby prohibited from using funds provided by this Agreement for the purposes of lobbying the Legislature, the judicial branch or a state agency.
26. The LOCAL SPONSOR covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required.
27. This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida.
28. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Agreement, shall impair any such right, power or remedy of either party. Nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

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29. To the extent required by law, the LOCAL SPONSOR will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this project. In the case any work is subcontracted, the LOCAL SPONSOR shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the LOCAL SPONSOR. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation Law, Chapter 440, Florida Statutes. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the LOCAL SPONSOR shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of its employees not otherwise protected.
30. The LOCAL SPONSOR recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement.
31. This Agreement is neither intended nor shall it be construed to grant any rights, privileges or interest in any third party without the mutual written agreement of the parties hereto.
32.
 - A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
 - B. An entity or affiliate who has been placed on the discriminatory vendor list maintained by the Florida Department of Management Services may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.
 - C. The DEPARTMENT supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of Minority Owned firms that could be offered subcontracting opportunities may be obtained by contracting the Office of Supplier Diversity at (850) 487-0915.
33. The LOCAL SPONSOR shall not subcontract, assign, or transfer any work under this Agreement without the prior written consent of the DEPARTMENT's Project Manager. The LOCAL SPONSOR agrees to be responsible for the fulfillment of all work elements included in any subcontract consented to by the DEPARTMENT and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the LOCAL SPONSOR that the DEPARTMENT shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the LOCAL SPONSOR shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The LOCAL SPONSOR will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, F.S.
34. When applicable, the LOCAL SPONSOR shall also notify the DEPARTMENT's Project Manager of the selection of an intended subcontractor and provide a tabulation list from which the intended subcontractor was selected. Upon the DEPARTMENT's request, the LOCAL SPONSOR shall furnish copies of the respective solicitation documents. Solicitation documents include, but are not limited to, the solicitation and responses thereto, the bid tabulations, and the resulting contract(s), including a detailed scope of work.

35. The LOCAL SPONSOR warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida Law, and that such self-insurance offers protection applicable to the LOCAL SPONSOR's officers, employees, servants and agents while acting within the scope of their employment with the LOCAL SPONSOR. The DEPARTMENT shall have no liability except as specifically provided in this Agreement.
36. The purchase of non-expendable equipment costing \$1,000 or more is not authorized under the terms and conditions of this Agreement.
37. The DEPARTMENT may at any time, by written order designated to be a change order, make any change in the work within the general scope of this Agreement (e.g., specifications, task timeline within current authorized Agreement period, method or manner of performance, requirements, etc.). All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change order which causes an increase or decrease in the LOCAL SPONSOR's cost or time shall require an appropriate adjustment and modification (formal amendment) to this Agreement.
38. The LOCAL SPONSOR shall comply with all applicable federal, state and local rules and regulations in providing services to the DEPARTMENT under this Agreement. The LOCAL SPONSOR acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulations. The LOCAL SPONSOR further agrees to include this provision in all subcontracts issued as a result of this Agreement.
39. The LOCAL SPONSOR shall obtain from each owner of upland property, which is adjacent to the erosion control project, a sufficient property interest in order to construct, maintain, monitor, and repair the erosion control project prior to entering each individual property to conduct such activities.
40. If a force majeure occurs that causes delays or the reasonable likelihood of delay in the fulfillment of the requirements of this Agreement, the LOCAL SPONSOR shall promptly notify the DEPARTMENT orally. Within seven (7) days, the LOCAL SPONSOR shall notify the DEPARTMENT in writing of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay, and the LOCAL SPONSOR's intended timetable for implementation of such measures. If the parties agree that the delay or anticipated delay was caused, or will be caused by a force majeure, the DEPARTMENT may, at its discretion, extend the time for performance under this Agreement for a period of time equal to the delay resulting from the force majeure. Such agreement shall be confirmed by letter from the DEPARTMENT accepting, or if necessary, modifying the extension. A force majeure shall be an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary third party approvals, and any other cause, whether of the kind specifically enumerated herein or otherwise, that is not reasonably within the control of the LOCAL SPONSOR and/or the DEPARTMENT. The LOCAL SPONSOR is responsible for the performance of all services issued under this Agreement. Failure to perform by the LOCAL SPONSOR's consultant(s) or subcontractor(s) shall not constitute a force majeure event.
41. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

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- All references to Attachment(s) A-3, B-3, C-3, D-2, and E-2, respectively, are hereby deleted and replaced with references to Attachment(s) A-4, B-4, C-4, D-3, and E-3.
- Attachment(s) A-3, B-3, C-3, D-2, and E-2 are hereby deleted in their entirety.
- Attachment(s) A-4, B-4, C-4, D-3, and E-3 as attached hereto are hereby added to the Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused these present to be duly executed, the day and year last written below

R 2009 0111

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: John F. Koons
~~*Addie L. Greene, Chairperson~~
John F. Koons, Chairman

By: Will L. Bant
Secretary or designee

Date: JAN 13 2009

Date: 12/12/08

FEID No. 59-6000785

ATTEST: Sharon R. Bock, Clerk & Comptroller
By: Nancy Powell
Deputy Clerk

[Signature]
DEP Grant Program Administrator

APPROVED as to form and legality:

[Signature]
DEP Attorney

(Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
Assistant County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: Richard E. Walesky
Richard E. Walesky, Director
Environmental Resources Management

*If someone other than the Chairperson, a resolution, statement or other documentation authorizing that person to sign the Agreement on behalf of the County must accompany the Agreement.

List of Attachments/Exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
Attachment	A-4	Project Work Plan (2 pages)
Attachment	B-4	Contract Payment Requirements (1 page)
Attachment	C-4	Request For Payment, Parts I - III (3 pages)
Attachment	D-3	Project Completion Certification (1 page)
Attachment	E-3	Special Audit Requirements (5 pages)