

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: April 5, 2011

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 approve: Bond Rider for Artificial Reef Contract R2008-1667.1 which reduces the required construction bond amount from \$2 million dollars to \$176,456.66.

**Summary:** The Board approved Artificial Reef Contract R2008-1667 and R2008-1667.1 with M & J Construction Co. of Pinellas County, Inc. (M & J) and The Murphy Construction Company (Murphy) on September 23, 2008. Both contracts required a construction bond of \$2 million dollars at the time the first Work Order was issued. Murphy only completed two relatively small Work Orders at the end of the Contract totaling \$176,456.66 and requested that their construction bond requirement be reduced to reflect actual work performed. District 1 (JM)

**Background and Justification:** The Contracts were approved on an annual basis with two, one-year renewal options. Total base bid of the work orders totaled \$2,660,433.76. M & J was the primary contractor and was issued seven (7) Work Orders from 2008 thru 2010. A one-year renewal option was approved extending the Contract until September 22, 2010. M & J opted out of a work order to construct an artificial reef offshore of Jupiter, partially funded by a \$60,000 state grant with a deadline in mid-September, 2010. The secondary contractor (Murphy) agreed to construct the reef but requested that the construction bond amount reflect the actual work performed. Although given less than 30 days to perform the work, Murphy met the time constraints of the state grant.

**Attachments:**

- 1. Bond Rider Forms with Contract History

Recommended by: Richard E. Walsh 3/11/11  
Department Director Date

Approved by: [Signature] 3/15/11  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

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

<b>Fiscal Years</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Capital Expenditures</b>	_____	_____	_____	_____	_____
<b>Operating Costs</b>	_____	_____	_____	_____	_____
<b>External Revenues</b>	_____	_____	_____	_____	_____
<b>Program Income (County)</b>	_____	_____	_____	_____	_____
<b>In-Kind Match (County)</b>	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____
<b>Is Item Included in Current Budget?</b>	Yes _____		No _____		
<b>Budget Account No.:</b>	Fund _____	Department _____	Unit _____	Object _____	
	Program _____				

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

*NO FISCAL IMPACT*

**C. Department Fiscal Review:**

*JP*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and /or Contract Dev. and Control Comments:**

<p>_____ OFMB</p>	<p><i>[Signature]</i> 3/7/11 3/6/11</p>	<p>_____ Contract Development and Control</p>	<p><i>[Signature]</i> 3/7/11 E.D. One 3/7/11</p>
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**B. Legal Sufficiency:**

\_\_\_\_\_  
Assistant County Attorney

*[Signature]* 3/10/11

**C. Other Department Review:**

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



Interchange Corporate Center  
450 Plymouth Road, Suite 400  
Plymouth Meeting, PA 19462-1644  
Ph. (610) 832-8240

**INCREASE / DECREASE RIDER**

Rider to be attached to and form a part of Bond Number 6670539, dated the 12th day of August, 2010, issued by Safeco Insurance Company of America, an insurance company, as Surety (the "Surety"), on behalf of The Murphy Construction Co., 1615 Clare Avenue, West Palm Beach, FL 33401, as principal (the "Principal"), in favor of Palm Beach County Board of County Commissioners, c/o Department of Environmental Resources Management, 2300 North Jog Road, 4th Floor, West Palm Beach, FL 33411-2743, as obligee (the "Obligee").

It is understood and agreed that the penal sum of the attached bond is hereby decreased from Two Million and 00/100 (increased/decreased \$2,000,000.00) Dollars, to One Hundred Seventy-Six Thousand Four Hundred Fifty-Six and 55/100 (\$176,456.66) Dollars. This change is effective the 7th day of February, 2011.

The attached bond shall be subject to all of its terms, conditions and limitations except as herein modified.

DATED as of this 7th day of February, 2011.

WITNESS / ATTEST:

Victor Martinelli  
Victor Martinelli, Secretary/Treasurer

The Murphy Construction Co.  
(Principal)  
By: [Signature] (Seal)  
Name: John E. Murphy  
Title: President & C.E.O.

Safeco Insurance Company of America  
(Surety)

By: Bradford W. Bush (Seal)  
Attorney-in-Fact: Bradford W. Bush

Palm Beach County Board of County Commissioners

ACCEPTED:

By: \_\_\_\_\_  
Typed Name/Title: Karen T. Marcus, Chair  
Date: \_\_\_\_\_



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Assistant County Attorney

3

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

3003100

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

**SAFECO INSURANCE COMPANY OF AMERICA  
SEATTLE, WASHINGTON  
POWER OF ATTORNEY**

**KNOW ALL PERSONS BY THESE PRESENTS:** That Safeco Insurance Company of America (the "Company"), a Washington stock insurance company, pursuant to and by authority of the By-law and Authorization hereinafter set forth, does hereby name, constitute and appoint **THERESA GREENE HAZEL, CURTIS L. HAZEL, CLARENCE F. GREENE III, BRADFORD W. BUSH, ALL OF THE CITY OF JACKSONVILLE, STATE OF FLORIDA**

each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations in the penal sum not exceeding **FIFTY MILLION AND 00/100\*\*\*\*\* DOLLARS (\$ 50,000,000\*\*\*\*\* )** each, and the execution of such undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company in their own proper persons.

That this power is made and executed pursuant to and by authority of the following By-law and Authorization:

**ARTICLE IV - Execution of Contracts: Section 12. Surety Bonds and Undertakings.**

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitations as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and executed, such instruments shall be as binding as if signed by the president and attested by the secretary.

By the following instrument the chairman or the president has authorized the officer or other official named therein to appoint attorneys-in-fact:

Pursuant to Article IV, Section 12 of the By-laws, Garnet W. Elliott, Assistant Secretary of Safeco Insurance Company of America, is authorized to appoint such attorneys-in-fact as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

That the By-law and the Authorization set forth above are true copies thereof and are now in full force and effect.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Company and the corporate seal of Safeco Insurance Company of America has been affixed thereto in Plymouth Meeting, Pennsylvania this 1st day of July, 2010.

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF MONTGOMERY



**SAFECO INSURANCE COMPANY OF AMERICA**

By Garnet W. Elliott  
Garnet W. Elliott, Assistant Secretary

On this 1st day of July, 2010, before me, a Notary Public, personally came Garnet W. Elliott, to me known, and acknowledged that he is an Assistant Secretary of Safeco Insurance Company of America; that he knows the seal of said corporation; and that he executed the above Power of Attorney and affixed the corporate seal of Safeco Insurance Company of America thereto with the authority and at the direction of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Notarial Seal  
Teresa Pastella, Notary Public  
Plymouth Twp., Montgomery County  
My Commission Expires Mar. 28, 2013  
Member, Pennsylvania Association of Notaries

By Teresa Pastella  
Teresa Pastella, Notary Public

**CERTIFICATE**

I, the undersigned, Assistant Secretary of Safeco Insurance Company of America, do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the officer or official who executed the said power of attorney is an Assistant Secretary specially authorized by the chairman or the president to appoint attorneys-in-fact as provided in Article IV, Section 12 of the By-laws of Safeco Insurance Company of America.

This certificate and the above power of attorney may be signed by facsimile or mechanically reproduced signatures under and by authority of the following vote of the board of directors of Safeco Insurance Company of America at a meeting duly called and held on the 18th day of September, 2009.

VOTED that the facsimile or mechanically reproduced signature of any assistant secretary of the company, wherever appearing upon a certified copy of any power of attorney issued by the company in connection with surety bonds, shall be valid and binding upon the company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said company; this 7th day of February, 2011.



By David M. Carey  
David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

4

