

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: March 12, 2013 Consent Regular
 Workshop Public Hearing

Department

Submitted By: Environmental Resources Management
Submitted For: Environmental Resources Management

I. EXECUTIVE BRIEF

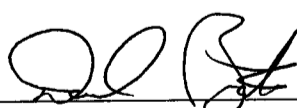
Motion and Title: Staff recommends motion to approve: Contract Amendment No.1 with the Loggerhead Marinelife Center (LMC) of Juno Beach for a not-to-exceed amount of \$86,069.50 for two years of sea turtle monitoring services for the Coral Cove Dune Restoration Project in Tequesta.


Summary: Environmental permits issued by the Florida Department of Environmental Protection (DEP) require monitoring to assess the impact of dune restoration on sea turtles. The LMC currently conducts similar sea turtle monitoring in Jupiter and Juno Beach on behalf of the County (R2012-0342). The Contract is funded by tourist development taxes. The Amendment includes standard tasks that total \$81,113.50 and optional tasks which total a not-to-exceed amount of \$4,956. Upon execution by both parties, the Amendment is retroactive to March 1, 2013 and does not change the December 31, 2014 expiration date of the existing Contract. Delegation of authority to sign all future time extensions, task assignments, certifications, and other forms associated with this contract that do not change the scope of work or terms and conditions of the contract was approved March 6, 2012, pursuant to PPM No. CW-O-051. District 1 (SF)

Background and Justification: Recent erosion of the dune requires restoration to protect park infrastructure. Tequesta and Coral Cove Park has the highest sea turtle nesting densities in the United States (over 2,000 nests/mile in 2012). It is important to confirm that dune restoration does not negatively affect nesting on this critical beach. The LMC is a private, non-profit corporation that has been monitoring sea turtles in Tequesta and Jupiter Inlet Colony for the last several years and has been monitoring beaches for the County since 1997.

Attachments:

- 1. Amendment

Recommended by:  2-26-13
 Department Director **Date**

Approved by:  2/14/13
 County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	<u>\$43,035</u>	<u>\$43,035</u>	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$43,035</u>	<u>\$43,035</u>	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?			Yes <u>X</u>	No _____	
Budget Account No.:	Fund <u>3652</u>	Department <u>381</u>	Unit <u>M040</u>	Object <u>3120</u>	
	Program _____				

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

Tourist Development Taxes

C. Department Fiscal Review:

III. REVIEW COMMENTS

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

<p>_____ OFMB</p> <p><i>2/19/13</i></p> <p><i>2/15/13 PM</i></p> <p><i>2-15-13</i></p>	<p>_____ Contract Development and Control</p> <p><i>2-27-13</i></p> <p><i>Bi Wheeler</i></p>
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B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

**AMENDMENT NO. 1 TO THE CONTRACT FOR SEA TURTLE MONITORING
SERVICES DATED MARCH 6, 2012 BY AND BETWEEN
LOGGERHEAD MARINELIFE CENTER, INC. AND PALM BEACH COUNTY
District #1**

THIS AMENDMENT to the Sea Turtle Monitoring Services Contract dated March 6, 2012 (R2012-0342) (hereinafter "CONTRACT") by and between Loggerhead Marinelifelife Center, Inc., a not-for-profit corporation (hereinafter "CONSULTANT") and the Board of County Commissioners of Palm Beach County, a political subdivision of the State of Florida (hereinafter "COUNTY").

W I T N E S E T H

WHEREAS, on March 6, 2012, the CONSULTANT and COUNTY entered into a CONTRACT, up to a maximum not-to-exceed amount of \$688,412.38 (hereinafter "CONTRACT PRICE"), for the monitoring of sea turtles in northern Palm Beach County; and

WHEREAS, additional services are required to meet Florida Department of Environmental Permit conditions for dune restoration at Coral Cove Park and adjacent beaches in Tequesta; and

WHEREAS, by this AMENDMENT, the CONSULTANT and the COUNTY mutually agree to amend the CONTRACT to (a) add services required to meet Florida Department of Environmental Protection permit conditions for Coral Cove dune restoration, and (b) increase the total amount of funds to be paid to the CONTRACTOR and (c) modify other CONTRACT terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties agree as follows:

Amendment No. 1 to Loggerhead Marineline Center Contract

1. The above recitations are true and correct and incorporated herein.
2. Paragraph A of Article 3 (Payments to Consultant) of the CONTRACT is hereby deleted and replaced with the following: The total amount to be paid by the COUNTY under this CONTRACT for all services and materials including, if applicable, "out of pocket" expenses (specified in paragraph C below) shall be increased by \$86,069.50 for a new not exceed total contract amount of Seven Hundred Seventy Four Thousand Four Hundred Eighty One and Eighty Eight cents. (\$774,481.88). The CONSULTANT shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONSULTANT will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B-1" for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.
3. The last paragraph of Article 7 (Subcontracting) of the CONTRACT is hereby deleted and replaced with the following: The CONSULTANT agrees to maintain all relevant records and information necessary to document compliance with the Palm Beach County Code.
4. Paragraph G (Waiver of Subrogation) of Article 10 (Insurance) of the CONTRACT is hereby deleted and replaced with the following:

Amendment No. 1 to Loggerhead Marinelife Center Contract

CONSULTANT 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 to the policy, then CONSULTANT 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 specifically prohibits such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

5. Article 12 (Successors and Assigns) of the CONTRACT is hereby deleted and replaced with the following: The COUNTY and the CONSULTANT 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 CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other.
6. Article 13 (Remedies) of the CONTRACT is hereby amended by adding the following paragraph: No provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract, including but not

Amendment No. 1 to Loggerhead Marinelife Center Contract

limited to any citizen or employees of the COUNTY and/or CONSULTANT.

7. The first sentence of Article 14 (Conflict of Interest) of the CONTRACT is hereby deleted and replaced with the following: The CONSULTANT 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, and the Palm Beach County Code of Ethics.
8. The last sentence of Article 17 (Disclosure and Ownership of Documents) of the CONTRACT is hereby deleted and replaced with the following: Notwithstanding any other provision in this Contract, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of the Inspector General, Palm Beach County Code, Sections 2-421 – 2-440, as amended.
9. Article 28 (Criminal History Records Check) of the CONTRACT is hereby deleted and replaced with the following: If CONSULTANT'S employees or subcontractors are required under this Contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONSULTANT shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONSULTANT acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal

Amendment No. 1 to Loggerhead Marineline Center Contract

history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONSULTANT shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

10. Exhibit A (Scope of Work) of the CONTRACT is amended by adding the Scope of Work attached hereto as Exhibit A-1.
11. Exhibit B (Schedule of Payments) of the CONTRACT is hereby deleted and replaced with the Schedule of Payments attached hereto as Exhibit B-1.
12. The COUNTY is authorized to compensate the CONSULTANT for services initiated prior to the date the County executes this Amendment provided CONSULTANT's services comply with the Amendment terms and conditions.
13. All other provisions of the CONTRACT shall remain in full force and effect.

(Remainder of page intentionally left blank)

Amendment No. 1 to Loggerhead Marinelifelife Center Contract

ATTEST:

SHARON R. BOCK,
Clerk & Comptroller

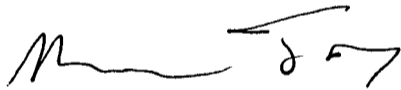
PALM BEACH COUNTY, a Political
Subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

APPROVED AS TO TERMS
AND CONDITIONS:

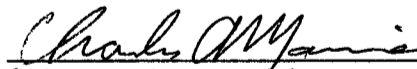


Assistant County Attorney

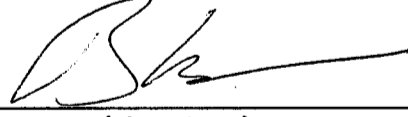


Daniel Bates, Deputy Director
Dept. of Environmental Res. Mgmt.

Loggerhead Marinelifelife Center, Inc.
Contractor



(witness signature)

By: 

(signatory)

CHARLES A. MANIRE

(witness name printed)

Brian K. Waxman

(print signatory's name)

Its: Chairman

(print title)

(Corporate Seal)

59-2445926
Federal Tax No.

**CERTIFICATE
(Corporation)**

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

1. That he/she is the Secretary of Loggerhead Marinelife Center, 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 13th day of February, 20 13, 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 Brian Waxman, the chairman 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 13th day of February, 20 13.

Ann Miller
(Signature)

(CORPORATE SEAL)

ANN MILLER SECRETARY
(Print Signatory's name & title)

SWORN TO AND SUBSCRIBED before me this 13th day of February, 2013, by the Secretary of the aforesaid Corporation, who is personally known to me OR who produced _____ as identification and who did _____ take an oath.



Kathleen M. Fratalla
(Notary Signature)

Kathleen M. Fratalla
(Print Notary's Name) **NOTARY PUBLIC**
State of Florida at Large
My Commission Expires:
1/13/2014

**AMENDMENT NO. 1 TO THE CONTRACT FOR SEA TURTLE MONITORING
SERVICES DATED MARCH 6, 2012 BY AND BETWEEN
LOGGERHEAD MARINELIFE CENTER, INC. AND PALM BEACH COUNTY
District #1**

**EXHIBIT A-1
SCOPE OF WORK**

To be added after Optional Task K:

Optional Task L: Temperature Data Loggers

Data loggers to measure sand temperature at egg chamber depths will be deployed to evaluate temperature differences between dune fill and adjacent beach and dune areas at Jupiter/Carlin and Tequesta/Coral Cove. Loggers will be marked with stakes and the markers checked daily for inundation or erosion. Loggers that may be eroded will be removed until the threat passes then redeployed. Data will be downloaded from the loggers at least monthly. Analysis will include comparisons of daily average temperatures between beaches and sand types.

Frequency: Monthly downloads until Sept 30

Data Reporting: Data analysis shall be included with Task 9.

**AMENDMENT #1 TASKS: ADDITIONAL SERVICES REQUIRED FOR
TEQUESTA/CORAL COVE DUNE RESTORION PROJECT**

A third survey area will be added to monitor a portion of Zone 1 and all of Zones 2-5 in Tequesta and Coral Cove Park. The survey limits begin at the north property boundary of the Passages Condominium and extend to the south property boundary of Blowing Rocks Condominium (0.46 miles). All work will be consistent with the methods described in the Scope of Work with the following exceptions:

- A. Task 1 (Nesting Surveys) shall continue daily through October 15.
- B. Task 5 (Nest Evaluations)- the minimum numbers of nests to be marked for evaluation of reproductive success in Tequesta/Coral Cove are 50 loggerhead nests in dune fill, 50 loggerhead nests on the beach, 100 green nests in the dune fill, 50 green nests on the beach, and 0 leatherback nests.
- C. Task 6 (Compaction) shall be performed by the COUNTY and the data provided to the CONTRACTOR for inclusion in the final report.

**AMENDMENT NO. 1 TO THE CONTRACT FOR SEA TURTLE MONITORING
SERVICES DATED MARCH 6, 2012 BY AND BETWEEN
LOGGERHEAD MARINELIFE CENTER, INC. AND PALM BEACH COUNTY
District #1**

**EXHIBIT B-1
SCHEDULE OF PAYMENTS**

This Schedule of Payments sets forth the compensation to be paid by the COUNTY to CONSULTANT upon CONSULTANT's successful completion of tasks and submission to COUNTY of certain deliverables as provided in the Scope of Work (**Exhibit A and A-1**). The term deliverables shall include all reports, datasheets, data files, etc. as described in **Exhibit A and A-1**. As provided in the Scope of Work, CONSULTANT shall be compensated only for those Optional Tasks authorized by the COUNTY through a Notice to Proceed. Compensation for the work performed by CONSULTANT pursuant to the Scope of Work shall be in accordance with the following Schedule of Payments:

Task 1- Daily Nesting Surveys

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Monthly Compensation (March-Sept): \$13,073.14

Task 2- Weekly Shorebird Surveys

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Monthly Compensation (April-August): \$928.20

Task 3- Weekly Escarpment Monitoring

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Monthly Compensation (March-Sept): \$621.43

Task 4- High Water Line and Dune Mapping

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Monthly Compensation (March-Sept): \$261.00

Task 5- Nest Evaluation

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Monthly Compensation (May-November): \$2,272.57

Task 6- Compaction

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Annual Compensation: \$2,019.25

Task 7- Zone Photos

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Annual Compensation: \$1,683.00

Task 8- Program Management

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Monthly Compensation (March-November): \$6,832.00

Task 9- Annual Report

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Annual Compensation: \$8,268.00

Task 10- Underwater Pier Cleaning

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Compensation: No charge

Task 11- Rescue and Rehabilitation of Stranded Turtles associated with Pier

Tasks to be completed: As set forth in **Exhibit A**

Deliverable Due Date: no later than the 15th day the month after completion

Compensation: No charge

OPTIONAL TASK A: Pre-construction Meeting for the Jupiter/Carlin Shoreline Protection Project

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

Due Date: no later than the due date of the appropriate monthly data submittal

Compensation for Optional Task A:

\$ 236.00/mtg

Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK B: Night Monitoring Associated with the Jupiter/Carlin Shoreline Protection Project

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

Due Date: no later than the due date of the appropriate monthly data submittal

Compensation for Optional Task B:

\$ 470.25/night

Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK C: Early Season Nest Relocation for the Jupiter/Carlin Shoreline Protection Project

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

Due Date: no later than the due date of the appropriate monthly data submittal

Compensation for Optional Task C: \$ 106.00/nest
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK D: Mark and Avoid Activities for the Jupiter/Carlin Shoreline Project

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task D: \$74.25/survey
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK E: Shorebird Monitoring for the Jupiter/Carlin Shoreline Project

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task E: \$69.38/survey
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK F: Additional Toe of Dune Mapping

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task F: (Jupiter) \$83.25/event
(Juno) \$152.63/event
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK G: Pre-construction Meeting for the Jupiter Inlet Dredging

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task G: \$236.00/mtg
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK H: Night Monitoring for the Jupiter Inlet Dredging

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task H: \$470.25/night
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK I: Early Season Nest Relocation for the Jupiter Inlet Dredging

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task I: \$106.00/nest
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK J: Mark and Avoid Activities for the Jupiter Inlet Dredging

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal

Compensation for Optional Task J: \$74.25/survey
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK K: Daily Nesting Surveys for the Jupiter Inlet Dredging

Task(s) to be Completed: As set forth in **Exhibit A**
Due Date: no later than the due date of the appropriate monthly data submittal
Compensation for Optional Task K: \$41.00/survey
Not to exceed amount to be determined by Notice to Proceed

OPTIONAL TASK L: Temperature Data Loggers

Task(s) to be Completed: As set forth in **Exhibit A-1**
Due Date: no later than the due date of the annual report
Compensation for Optional Task L: \$206.50/ logger
Not to exceed amount to be determined by Notice to Proceed

AMENDMENT #1 TASKS: ADDITIONAL SERVICES REQUIRED FOR TEQUESTA/CORAL COVE DUNE RESTORION PROJECT

Tasks to be completed: As set forth in **Amendment #1- Exhibit A-1**
Deliverable Due Date: no later than the 15th day the month after completion

Task 1- Daily Nesting Surveys

Monthly Compensation (March-October): \$2,075.32

Task 3- Weekly Escarpment Monitoring

Monthly Compensation (March-Sept): \$149.14

Task 4- High Water Line and Dune Mapping

Monthly Compensation (March-Sept): \$49.71

Task 5- Nest Evaluation

Monthly Compensation (May-November): \$887.36

Task 8- Program Management

Monthly Compensation (March-November): \$1,409

Task 9- Annual Report

Annual Compensation: \$2,632