

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

Meeting Date: January 10, 2017	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
	<input type="checkbox"/> Workshop	<input type="checkbox"/> 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 for Sinking of Retired Naval Submarine *USS CLAMAGORE* to Create an Artificial Reef (Contract) with CRB Geological and Environmental Services, Inc. (CRB-GES) D/B/A Artificial Reefs International USS Clamagore, a Miami based company, in an amount not to exceed \$1,000,000 for turnkey services that include: procurement, preparation, towing and scuttling of the 320' retired United States Naval Submarine *USS CLAMAGORE* in 90-100' of water at a County-permitted artificial reef location offshore of Jupiter/Juno Beach within 365 days of Contract execution;

**B) adopt** a resolution authorizing the Clerk of the Board to disburse \$1,000,000 from the Vessel Registration Fee Trust Fund to cover the County's portion of the *USS CLAMAGORE* Reef Project (Project);

**C) approve** a Budget Transfer of \$1,000,000 from the Environmental Enhancement Non-Specific Funds (1225) Reserves to the *USS CLAMAGORE* Reef Project; and

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

**Summary:** CRB-GES has secured exclusive rights with the submarine owner, Patriots Point Naval & Maritime Museum, for acquiring and reefing the *USS CLAMAGORE*, a 320' long Balao class submarine built in 1945 and retired to the museum in 1975. Total costs for the Project should not exceed \$4M, with CRB-GES raising the balance of the necessary funding through local sponsorships and other funding opportunities. The resolution authorizes the Clerk to transfer \$1,000,000 from the Vessel Registration Fee Trust Fund into the Environmental Enhancement Non-Specific Fund to cover the County's portion of the costs for the procurement, preparation, towing and scuttling of the ship off Jupiter/Juno Beach. The County may only terminate this Contract with cause. District 1 (AH)

**Background and Justification:** The *USS CLAMAGORE* has been a popular exhibit at Patriots Point near Charleston, South Carolina. Recent structural fatigue requires costs to refurbish the vessel to safe standards that exceed the available budget. Alternative uses have been explored with the reefing concept being the most viable. CRB-GES has extensive knowledge in reefing retired naval vessels including the *USS MOHAWK* and *USS VANDENBERG*, both off the Florida coast. This will be a unique and historic addition to the County's extensive Artificial Reef Program.

**Attachments:**

1. Contract
2. Resolution
3. Budget Transfer (1225)

Recommended by: _____	12-14-16
Department Director	Date

Approved by: _____	1-5-17
Deputy County Administrator	Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures					
Operating Costs	<u>\$1,000,000</u>				
External Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	<b><u>\$1,000,000</u></b>				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes  No   
 Budget Account No.: Fund \_\_\_ Department \_\_\_ Unit \_\_\_ Object \_\_\_  
 Program \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact**  
 Vessel Registration Fee Trust Fund - Non-Specific (1225) \$1,000,000

**C. Department Fiscal Review:**

*J. Neary*

**III. REVIEW COMMENTS**

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

*[Signature]*  
 OFMB

*[Signature]* 12/30/16  
 Contract Administrator

**B. Legal Sufficiency:**

*Anne DeBevoise* 1-4-17  
 Assistant County Attorney

**C. Other Department Review:**

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

## ATTACHMENT 1

### **CONTRACT FOR SINKING OF RETIRED NAVAL SUBMARINE USS CLAMAGORE TO CREATE AN ARTIFICIAL REEF**

This Contract is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017, 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 CRB Geological and Environmental Services, Inc. D/B/A Artificial Reefs International USS CLAMAGORE (ARI-Clamagore) located at 8744 SW 133 Street, Miami, FL 33176, a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I. D. number is 65-0324398.

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 assume liability for, procurement preparation, transportation, and scuttling the vessel, USS CLAMAGORE, as an artificial reef as more specifically set forth in the Scope of Work/Services detailed in Exhibit A, and at a permitted artificial reef site within Palm Beach County.

The COUNTY's representative/liaison during the performance of this Contract shall be Robert Robbins, Director, Environmental Resources Management, telephone number (561) 233-2400 or designee Carman Vare, telephone number (561) 233-2444.

The CONTRACTOR's representative/liaison during the performance of this Contract shall be Fred Baddour, President, telephone number (305) 447-9777.

#### **ARTICLE 2 - SCHEDULE**

The CONTRACTOR shall commence services within 10 calendar days of receipt of a fully executed contract, and complete all services within 365 days from execution of this Contract.

Reports and other items shall be delivered and/or completed in accordance with Exhibit A and CONTRACTOR proposal.

#### **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 Million Dollars (\$1,000,000.00). This payment will be made as a lump sum upon the completion of the Scope of Work/Services set forth in Exhibit A and CONTRACTOR'S PROPOSAL set forth in Attachment 1.

- B. The invoice 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. The approved invoice 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. 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 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 the 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 cause immediately upon written notice to the CONTRACTOR 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 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 subcontractor) 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. The CONTRACTOR is encouraged to seek small business enterprises (SBE) for participation in subcontracting opportunities. If the CONTRACTOR uses any subcontractors on this project the following provisions of this Article shall apply:

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 agrees to maintain all relevant records and information necessary to document compliance and 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 - INSURANCE**

It shall be the responsibility of the CONTRACTOR to provide evidence of the following minimum amounts of insurance coverage to Palm Beach County Environmental Resources Management 2300 North Jog Road, West Palm Beach, FL 33411, Attention: Julie Aden, Contracts Manager, Environmental Enhancement and Restoration Division. The CONTRACTOR shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Contract, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of the Contract. 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.

- A. **Commercial General Liability:** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence, **\$2,000,000** Aggregate Coverage. 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.
- B. **Marine Employers Liability Policy:** CONTRACTOR shall maintain Marine Employers Liability insurance with limits of **\$1,000,000** any one person, **\$1,000,000** any one accident.
- C. **Environmental Impairment/Pollution Liability:** CONTRACTOR shall maintain Environmental Impairment/Pollution Liability at limits not less than **\$3,000,000**.
- D. **Workers' Compensation Insurance & Employer's Liability:** CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440. CONTRACTOR shall provide this coverage on a primary basis. CONTRACTOR and/or its approved sub-contractors agree to maintain Federal Act endorsement for U.S. Longshoremen's & Harbor Workers Act (WC 00 01 06 A) and The Jones Act (WC 00 02 01 A) when activities or operations involve work on or contiguous to navigable bodies of U.S. waterways and ways adjoining, or vessels.
- E. **Business Automobile Liability:** CONTRACTOR shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-

owned and hired automobiles. In the event CONTRACTOR doesn't own 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.

- F. **Additional Insured Clause:** CONTRACTOR shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured – Designed Person or Organization endorsement, or its equivalent, to the Commercial General Liability and Marine Protection and Indemnity coverage. 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.
- G. **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 prohibits such an endorsement, or which voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.
- H. **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 ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to:

Palm Beach County  
Environmental Resources Management  
2300 North Jog Road  
West Palm Beach, FL 33411

- I. **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.

- J. **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 10 - 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 attorneys’ 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 11 - 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.

#### **ARTICLE 12 - 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 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.

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

#### **ARTICLE 13 - 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 and the Palm Beach



County Code of Ethics. 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 14 - 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 subcontractor(s) 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, federal approval processes regarding Section 106 Historic Review, 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 15 - 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 16 - 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 bases, 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.

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 through 2-440, as amended.

#### **ARTICLE 17 - 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.

#### **ARTICLE 18 - 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 19 - ACCESS AND AUDITS**

The CONTRACTOR shall maintain adequate records related to 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.

Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 through 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-241 through 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**ARTICLE 20 - 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, familial status, sexual orientation, gender identity, expression or genetic information.

CONTRACTOR has submitted to COUNTY a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if CONTRACTOR does not have a written non-discrimination policy or one that conforms to the COUNTY's policy, it has acknowledged through a signed statement provided to the COUNTY that CONTRACTOR will conform to the COUNTY's non-discrimination policy as provided in R-2014-1421, as amended.

**ARTICLE 21 - 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 22 - 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 23 - 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 consultants 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 thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

#### **ARTICLE 24 - 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 25 - NOTICE**

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

Robert Robbins, Director  
Environmental Resources Management

2300 North Jog Road  
West Palm Beach, FL 33411

With a copy to: Palm Beach County Attorney's Office  
301 N. Olive Avenue  
West Palm Beach, FL 33401

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

Fred Baddour, President  
CRB Geological and Environmental Services, Inc.  
D/B/A ARI USS CLAMAGORE  
8744 SW 133 Street  
Miami, FL 33176

#### **ARTICLE 26 - 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 the 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 27 - CRIMINAL HISTORY RECORDS CHECK**

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 shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). 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 from criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

#### **ARTICLE 28 - 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.

## **ARTICLE 29 – PUBLIC RECORDS**

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the CONTRACTOR: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the CONTRACTOR shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time the CONTRACTOR is specifically required to:

- A. Keep and maintain public records required by the County to perform services as provided under this Contract.
- B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The CONTRACTOR further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the CONTRACTOR does not transfer the records of the public agency.
- D. Upon completion of the Contract the CONTRACTOR shall transfer, at no cost to the County, all public records in possession of the CONTRACTOR unless notified by the County's representative/ liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the CONTRACTOR transfers all public records to the County upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically by the CONTRACTOR must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to the County.

Failure of the CONTRACTOR to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. CONTRACTOR acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY EMAIL AT [RECORDSREQUEST@PBCGOV.ORG](mailto:RECORDSREQUEST@PBCGOV.ORG) OR BY TELEPHONE AT 561-355-6680."

(Remaining portion of this page has been 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 CONTRACTOR has hereunto set its hand the day and year above written.

ATTEST:  
SHARON R. BOCK  
CLERK AND COMPTROLLER

PALM BEACH COUNTY,  
BOARD OF COUNTY  
COMMISSIONERS


BY: \_\_\_\_\_  
DEPUTY CLERK

BY: \_\_\_\_\_  
PAULETTE BURDICK, MAYOR

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

BY: \_\_\_\_\_  
ASSISTANT COUNTY ATTORNEY

BY:   
DIRECTOR, ENVIRONMENTAL  
RESOURCES MANAGEMENT

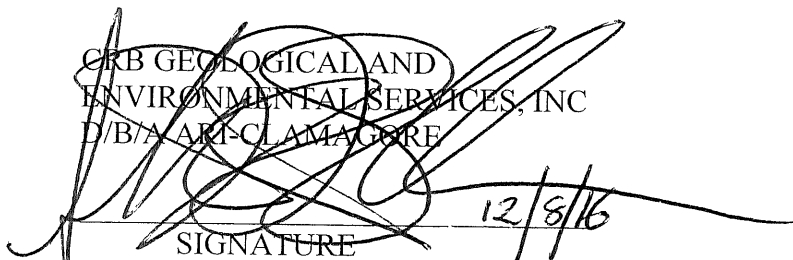
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DATE

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DATE

WITNESS:

CRB GEOLOGICAL AND  
ENVIRONMENTAL SERVICES, INC  
D/B/A ART-CLAMAGORE

\_\_\_\_\_  
SIGNATURE

  
SIGNATURE 12/8/16

\_\_\_\_\_  
NAME (TYPE OF PRINT)

BY: FRED BADDOUR  
NAME (TYPE OR PRINT)

ITS: PRESIDENT  
TITLE

(CORPORATE SEAL)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OF PRINT)



NAME (TYPE OF PRINT)

**EXHIBIT A**  
**SCOPE OF WORK/SERVICES**

1. The CONTRACTOR shall procure, prepare, transport, and scuttle the retired naval submarine *USS CLAMAGORE* as an artificial reef for the COUNTY.
2. The vessel shall not be scuttled until the COUNTY has given its written approval.
3. As this vessel is on the national historical registry, it shall be approved to be scuttled as an artificial reef by the Naval Sea Systems Command through Section 106 historical review process.
4. Preparation shall also include the sampling and abatement of all asbestos and polychlorinated biphenyls (PCB) materials, as necessary, by County, State and Federal requirements. Removal of pollutants shall be supervised by a qualified environmental consulting firm with an expertise in asbestos and Polychlorinated Biphenyls (PCB) remediation. All preparations and removals shall be completed with a final report prepared by the consulting firm attesting that the vessel is free of PCBs and asbestos.
5. Preparation of the *USS CLAMAGORE* shall include all actions necessary to secure Coast Guard approval for scuttling the vessel as an artificial reef, including, but not limited to: any and all actions necessary to ensure the structural integrity of the vessel; removal of all petroleum products and other materials potentially hazardous to the marine environment and cleaning or removing any compartments used to hold those products; removal of any floatables or loose objects including, but not limited to, tire fenders, loose deck gear, wood, loose paneling, or other miscellaneous materials that are not an integral part of the vessel's structure; removal of any objects not substantial enough to withstand the stress of a rapid scuttling; removal of all glass; and removal of all doors, hatch covers, and loose cables or wiring. The CONTRACTOR shall coordinate all necessary inspections and approvals with the Coast Guard Marine Safety Office. The disposition of all removed materials will be in accordance with all applicable state and federal regulations.
6. Any salvage activity which may adversely affect the vessel's structural integrity is expressly prohibited. All salvageable items must have COUNTY approval before they are removed from the vessel and the following items shall not be removed: vessel's propeller; conning tower and any other structural components that give this vessel its unique character as a submarine. Specific salvage materials obligated to the planned submarine museum in Palm Beach County will be delivered to a County-specified location.
7. The salvaging and preparation of the vessel will result in making it safe for divers. Work would include but not limited to creating large openings into the hull of the ship for easy

ingress and egress. The planned removal of the majority of the hull on the one-side of the vessel is allowable provided that the structural components to the vessel remain intact and are not compromised.

7. The CONTRACTOR shall scuttle the vessel *USS CLAMAGORE* at a COUNTY permitted artificial reef site in approximately 90-100 feet of water and shall remain on site until released by the COUNTY. The COUNTY shall have final say as to the where the naval vessel will be sunk.
8. The CONTRACTOR shall submit a written operational plan for scuttling the vessel for COUNTY approval at least seven (7) days in advance of the proposed scuttling. The vessel shall be scuttled so as to come to rest on the ocean bottom in a level position, upright on its keel, and shall maintain a minimum vertical navigational clearance above any substantial structural part of the vessel of at least fifty (50) feet. For the purpose of this contract, "level position" shall mean the vessel shall be resting upright on its keel and listing no more than twenty (20) degrees from vertical to port or starboard.
9. The CONTRACTOR shall devise a method to scuttle the vessel to successfully have it come to rest on its keel. In addition, the CONTRACTOR will be required to perform stability analysis of the vessel on the ocean bottom and formulate an approved plan to fix the vessel to the bottom to account for a 100 year storm event. Scuttling plans could include the use of heavy anchors and chain, the use of multiple tug boats and the construction of external frame to orient and hold the submarine in a vertical position relative to its keel. Stabilizing the vessel to the bottom may require additional ground tackle and/or pins driven into the ocean bottom. Further, weight in the form of concrete may be added to provide the required stability. Both the scuttling and stabilizing plans will require approval by the COUNTY.
10. A written Contingency Plan to be implemented in the event of anchor or rode failure or any other condition that may cause the vessel to move out of the desired position shall be submitted to and approved in writing by the COUNTY at least seven (7) days prior to the date of the proposed scuttling by the CONTRACTOR.
11. The CONTRACTOR shall abide by all State, Federal and U.S. Coast Guard requirements, as stated in the COUNTY's artificial reef permit for the site where the vessel will be placed.



December 8, 2016

Robert Robbins, Director  
Palm Beach County Environmental Resource Management  
2300 North Jog Road - Fourth Floor  
West Palm Beach, FL 33411-2743

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*USS Clamagore Artificial Reef Project Proposal for Palm Beach County*

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**The Opportunity:**

ARI - Clamagore proposes to partner with Palm Beach County, Florida to sink the USS Clamagore as world's premier Submarine reef and underwater museum off Jupiter, FL.

ARI - Clamagore has secured the exclusive rights to create an artificial reef by sinking the USS Clamagore, a 320' WWII-era Balao class submarine currently serving as a museum at Patriots Point, near Charleston, SC. The submarine is nicknamed "The Gray Ghost of the Florida Coast". Patriots Point lacks the necessary funding to restore the boat to a safe museum state. Patriots Point recognizes that reefing can save the USS Clamagore from the scrap yard. ARI - Clamagore was selected by Patriots Point for this task due to its principals' success with similar, past projects.

**How much does the Project cost?**

Patriots Point has contracted ARI - Clamagore to determine the cost of reefing the submarine. The cost of reefing of the USS Clamagore in a fashion that will be most beneficial to Palm Beach County will be no more than \$4 million. This is a turn-key price to deliver the USS Clamagore from her current mooring at Patriots Point, environmentally clean and prepare the boat and deploy her on the permitted reef site off Palm Beach County near Jupiter, FL.

ARI - Clamagore has had a number of discussions with representatives from the Palm Beach County Artificial Reef Program and is requesting \$1 million from Palm Beach County to pay for this Project. ARI - Clamagore plans to raise the balance of the funds with the help of project supporters. This process is underway and some sponsors are committed.

**Why should Palm Beach County do this?**

The opportunity to sink a large submarine of this type in a premier recreational fishing and scuba diving destination like Palm Beach County is unprecedented. Once deployed, the USS Clamagore Artificial Reef Project will be a permanent economic engine providing tourism commerce, jobs and tax revenue. The heads-in-beds aspect of recreational scuba diving, for example, represents highly valued off-season business in summertime. The earned media associated with projects of this type is substantial. Once deployed the reef needs no maintenance, staff or insurance. It is a one-time expense.

**Will the USS Clamagore Artificial Reef Project be a "Green" project?**

Yes. ARI - Clamagore will environmentally clean the USS Clamagore to the extremely rigorous standards set forth in the US Environmental Protection Agency's "Best Management Practices for Preparing Vessel as Artificial Reefs" (BMPs). All



regulated material identified in the BMPs will be physically removed from the USS Clamagore by trained professionals and be properly disposed of. Marine life of all types will colonize and call the USS Clamagore home.

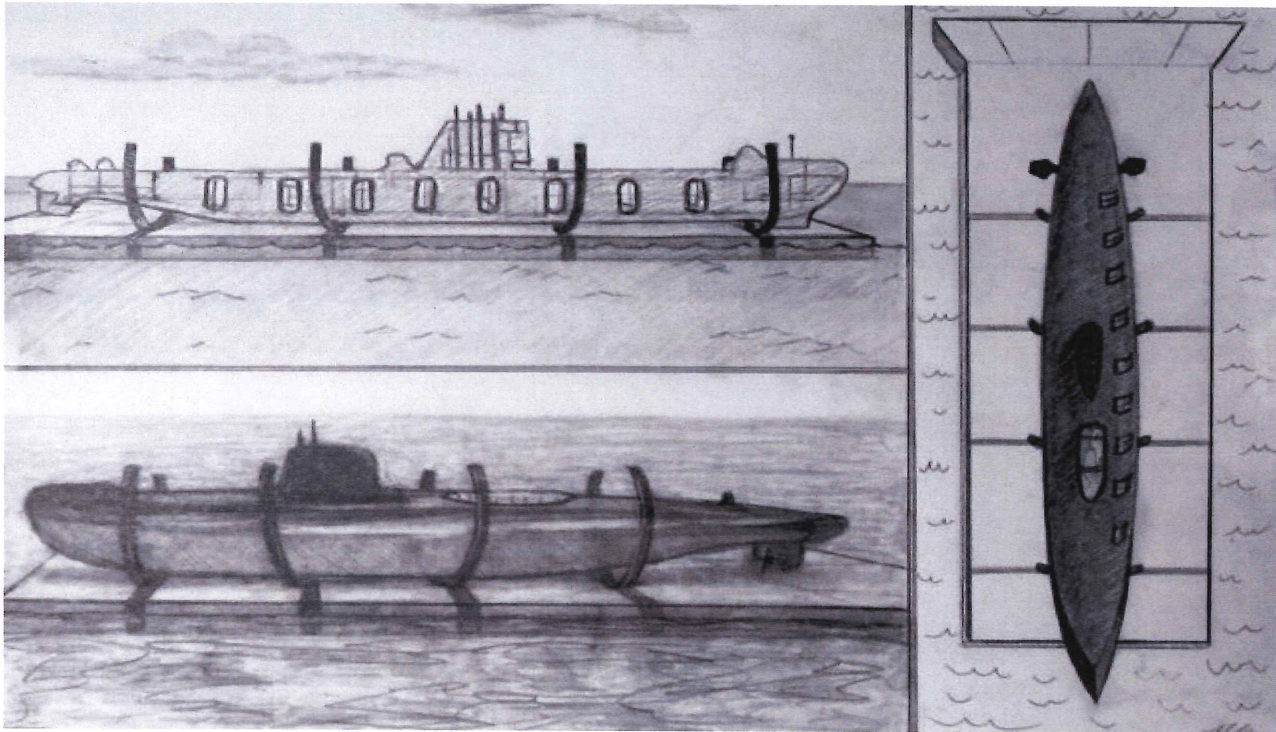
The USS Clamagore Artificial Reef Project will be a “green” project. The ARI - Clamagore team is very familiar with all materials present aboard USS Clamagore and has experience cleaning other submarines of this type as well as other historic ships.

**When will the Clamagore be deployed?**

The USS Clamagore Artificial Reef Project will be deployed off Jupiter in July, 2017, however we would request 365 days from the execution of the contract. This schedule is predicated on securing the necessary funding in a timely fashion and a prioritization of the necessary paperwork by all involved for the project to proceed.

**What will the USS Clamagore Artificial Reef Project look like on the bottom of the Ocean?**

Below are some conceptual images of the USS Clamagore Artificial Reef Project on the bottom of the Ocean:



## Current / Future State



The salvaged German U-boat U-534 being towed on a pontoon through the Channel on her way to the Mersey - see News Round-up Picture: Futofite, Ashford



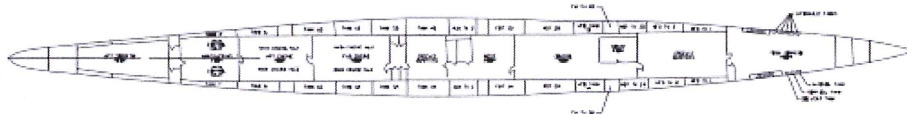
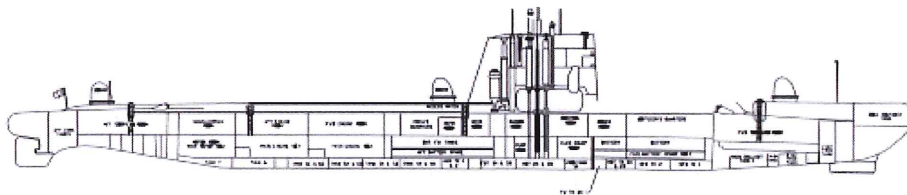
[www.arireefs.com](http://www.arireefs.com)

Artificial Reefs International, LLC Confidential & Proprietary 2016

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## Boat Details

- ❖ Displacement: 2,425 tons submerged
- ❖ Length: 322 feet
- ❖ Beam 27 feet
- ❖ Propulsion: Diesel-electric
- ❖ Main Armament: 10 torpedo tubes
- ❖ Years in Service: 1945 - 1973



[www.arireefs.com](http://www.arireefs.com)

Artificial Reefs International, LLC Confidential & Proprietary 2016

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ARI-Clamagore  
8744 SW 133 Street  
Miami, FL 33176

**What other benefits associated with this project to Palm Beach County can be realized?**

ARI - Clamagore has developed a fully integrated project for USS Clamagore, centered on the reefing of the USS Clamagore in the fashion depicted in this document, as the world's first underwater submarine museum.

This project has been designed to incorporate a static land-based museum and an annual submarine event to be held in Palm Beach County during off-peak tourism dates. These additional features, while not included in the scope of work or the pricing structure outlined above, will greatly enhance the annual economic potential of the USS Clamagore Artificial Reef Project. ARI - Clamagore has developed this concept and has discussed it in detail with leadership from Palm Beach County.

Project details are available as are our teams' resumes and references regarding our work. Please feel free to contact me with any questions. I look forward to working with you and Palm Beach County on this exciting project.

Best Regards,

A handwritten signature in blue ink that reads "Joe Weatherby". The signature is fluid and cursive, written over a light blue horizontal line.

Fred Baddour

President, ARI – Clamagore  
[www.crbgeo.net](http://www.crbgeo.net)  
(305)447-9777

Joe Weatherby

Principal, ARI - Clamagore  
[www.arireefs.com](http://www.arireefs.com)  
(305) 797-7077

ATTACHMENT 2

RESOLUTION NO. R-2017-\_\_\_\_\_

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA TO UTILIZE A PORTION OF THE COUNTY VESSEL REGISTRATION FEES FOR THE CONSTRUCTION OF AN ARTIFICIAL REEF PROJECT.**

WHEREAS, Palm Beach County enacted the Vessel Registration Fee Ordinance, No. 88-40 which began collecting fees June 1, 1989; and

WHEREAS, the Vessel Registration Fee Ordinance provides that monies collected from vessel registration fees be utilized to protect coastal marine and estuarine habitats, maintain and enhance fisheries and other salt and freshwater habitats, and construct artificial reefs; and

WHEREAS, Environmental Resources Management has identified a 320' surplus United States Naval Submarine *USS CLAMAGORE* as an artificial reef project which will enhance the marine resources of Palm Beach County's coastal waters; and

WHEREAS, the vessel *USS CLAMAGORE* was built in 1945 for the United States Navy and initially assigned to Key West patrolling the Caribbean and the North Atlantic during the Cold War; and

WHEREAS, the vessel was decommissioned in 1975 and donated to Patriot's Point Naval and Maritime Museum and was registered as a National Register of Historic Places but recent deterioration has prompted the Museum to donate the ship for creating an artificial reef; and

WHEREAS, this vessel will increase the primary productivity of Palm Beach County's coastal waters by providing habitat and shelter for increased numbers and more a diverse population of fish stocks; and

WHEREAS, this project will provide unique diving opportunities, relieve user pressures on natural reefs, and further establish Palm Beach County as a premier diving destination; and

WHEREAS, the Contractor will procure the remaining necessary funding to cover the costs of this project; and

WHEREAS, the Director of Environmental Resources Management recommends that the Board of County Commissioners authorize the Clerk of the Court to disburse Vessel Registration Fee monies in the amount of \$1,000,000 to provide funding for this project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF PALM BEACH COUNTY FLORIDA, THAT:

Section 1: The foregoing recitals are hereby adopted and ratified.

Section 2: The Board hereby authorizes the Clerk to disburse funds of \$1,000,000 for  
the purpose of constructing the *USS CLAMAGORE* Reef.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who  
moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and  
upon being put to a vote, the vote was as follows:

District 2:	Paulette Burdick, Mayor	_____
District 6:	Melissa McKinlay, Vice Chair	_____
District 1:	Hal. R. Valeche	_____
District 3:	Dave Kerner	_____
District 4:	Steven L. Abrams	_____
District 5:	Mary Lou Berger	_____
District 7:	Mack Bernard	_____

The Mayor thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_  
day of \_\_\_\_\_, 2017.

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

**PALM BEACH COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS**

**Sharon R. Bock**  
**Clerk and Comptroller**

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

By \_\_\_\_\_  
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA

BUDGET TRANSFER  
FUND 1225 Environmental Enhancement -Non-Specific


ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENC/EXP 11/21/2016	REMAINING BALANCE
<u>Appropriations</u>							
<u>Jupiter/Juno Beach Artificial Reef</u>							
380-3076            3401 Other Contractual Services	100,000	100,000	1,000,000	0	1,100,000	0	1,100,000
<u>Reserve -Non-Specific Projects</u>							
380-3893            9902 Operating Reserves	1,871,247	2,727,240		1,000,000	1,727,240	0	1,727,240
			1,000,000	1,000,000			

ATTACHMENT 3

Environmental Resources  
Management

INITIATING DEPARTMENT/DIVISION  
Administration/Budget Department Approval  
OFMB Department - Posted

Signatures & Dates

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BY BOARD OF COUNTY COMMISSIONERS

AT MEETING OF

January 10, 2017

Deputy Clerk to the  
Board of County Commissioners