

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

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<b>Meeting Date:</b> May 2, 2017	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
	<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing

**Department**

**Submitted By:** Environmental Resources Management

**Submitted For:** Environmental Resources Management

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**I. EXECUTIVE BRIEF**

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

**A) approve** a Contract with the Lake Worth Lagoon Environmental Defense Fund, Inc. D/B/A LagoonKeepers.org to provide Marine Debris and Derelict Vessel Removal Services (Contract) for an amount not to exceed \$135,900, to start upon execution and end April 2, 2020;

**B) adopt** a resolution authorizing the Clerk of the Court to disburse \$150,000 from the Pollution Recovery Trust Fund to cover costs associated with the LagoonKeeper.org Contract and contingencies;

**C) approve** a budget transfer of \$150,000 from Pollution Recovery Trust Fund reserves to fund the Contract and contingencies; 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:** LagoonKeepers.org, a Florida not-for-profit corporation, will provide marine debris and derelict vessel removal services within County waters and wetland restoration projects located within the Lake Worth Lagoon, namely: Osprey Park, Currie Park, South Cove, Snook Islands, Grassy Flats, Ibis Isles, Bryant Park and Jewell Cove.

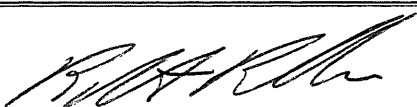
Countywide (AH)

**Background and Justification:** On April 15, 2014 the Board approved a contract with LagoonKeepers.org (R-2014-0523) to provide three years of marine debris removal services. On October 7, 2014 the Board amended the contract (R-2014-1491) to add derelict vessel removal services. The approval of this new 3-year contract with LagoonKeepers.org will continue to provide marine debris and derelict vessel removal services. LagoonKeepers.org was established in 2003 and has removed many tons of marine debris and approximately 250 derelict vessels within Palm Beach County.

**Attachments:**

1. Contract
2. Resolution
3. Budget Transfer

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<b>Recommended by:</b> 	3/21/17
<b>Department Director</b>	<b>Date</b>

<b>Approved by:</b> 	4/17/17
<b>Deputy County Administrator</b>	<b>Date</b>

**II. FISCAL IMPACT ANALYSIS****A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2017	2018	2019	2020	2021
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>\$33,975</u>	<u>\$45,300</u>	<u>\$45,300</u>	<u>\$11,325</u>	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$33,957</u>	<u>\$45,300</u>	<u>\$45,300</u>	<u>\$11,325</u>	<u>\$0</u>

# ADDITIONAL FTE

POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No.: Fund 1227 Department 380 Unit 4008 Object 3401  
 Program \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact**  
 Pollution Recovery Trust Fund

**C. Department Fiscal Review:**

*S. Neary*

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

*[Signature]* 4/11/17  
 OFMB *[Signature]* 4/11  
*[Signature]* 4/13/17  
 Contract Administrator

**B. Legal Sufficiency:**

*Anne Delgant* 4-17-17  
 Assistant County Attorney

**C. Other Department Review:**

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

# Attachment 1

**CONTRACT  
BETWEEN  
PALM BEACH COUNTY  
AND  
LAKE WORTH LAGOON ENVIRONMENTAL DEFENSE FUND, INC.  
FOR  
MARINE DEBRIS REMOVAL SERVICES**

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 Lake Worth Lagoon Environmental Defense Fund, Inc., D/B/A LagoonKeepers.org, P.O. Box 14932, North Palm Beach, FL 33408, a Florida not for-profit corporation hereafter referred to as the CONTRACTOR, whose Federal Tax ID Number (FEIN) is 14-1895034.

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

## **ARTICLE 1 - SERVICES**

The CONTRACTOR'S responsibility under this Contract is to provide services in the area of shoreline maintenance by removing floating marine debris within County wetland restoration projects and by removing vessels that have been lawfully determined by the Florida Fish and Wildlife Conservation Commission (FWC) or an authorized law enforcement entity to be derelict or abandoned within the meaning of the applicable Florida Statutes, as more specifically set forth in the Scope of Work detailed in Exhibit "A". The CONTRACTOR shall abide by the Best Management Practices for Derelict Vessel Removal as set forth in Attachment 1 and submit a memo for each derelict vessel removed that includes the disposition of each vessel, and photographs that document the condition of each vessel prior to removal, the removal process for each vessel, and the final disposition of each vessel. The CONTRACTOR shall also be responsible for the disposal of and/or to recycle all materials at the Solid Waste Authority.

The COUNTY'S representative/liaison during the performance of this Contract shall be the Director of the Palm Beach County Department of Environmental Resources Management, telephone no. 561-233-2400.

The CONTRACTOR'S representative/liaison during the performance of this Contract shall be the Executive Director of Lagoon Keepers.org, Gregory Reynolds, telephone no. 561-255-6974.

## **ARTICLE 2 - SCHEDULE**

The CONTRACTOR shall commence services upon receipt of the COUNTY's written Notice to Proceed and complete all services by April 2, 2020.

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

- A. The total amount to be paid by the COUNTY under this Contract for all services shall not exceed a total contract amount of One Hundred and Thirty-Five Thousand Nine Hundred Dollars (\$135,900.00) as set forth in the CONTRACTOR'S proposal in Exhibit "A" 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.
- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. "Out-of-pocket" expenses including, but not limited to, mailing charges, copying fees, telephone charges and miscellaneous supplies shall not be reimbursed under this Contract.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "final invoice" on the CONTRACTOR'S final/last billing to the COUNTY. This shall constitute CONTRACTOR'S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the CONTRACTOR.

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

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

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

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

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

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



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

#### **ARTICLE 6 - PERSONNEL**

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

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

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

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

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

#### **ARTICLE 7 - SUBCONTRACTING**

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONSULTANT is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If the CONSULTANT 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 CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

The Palm Beach County Board of County Commissioners has established a minimum goal for SBE participation of 15% on all County solicitations.

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

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

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

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

The CONSULTANT will only be permitted to replace a certified SBE subcontractor who is unwilling or unable to perform. Such substitutions must be done with another certified SBE in order to maintain the SBE percentages established in this Contract. Requests for substitutions of SBE's must be submitted to the COUNTY's representative and to the Office of Small Business Assistance.

The CONSULTANT shall be required to submit to the COUNTY Schedule 1 (Participation of SBE-M/WBE Contractors) and Schedule 2 (Letter of Intent) to further indicate the specific participation anticipated, where applicable.

The CONSULTANT agrees to maintain all relevant records and information necessary to document compliance with the Palm Beach County Code and will allow the COUNTY to inspect such records.

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

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

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

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

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

#### **ARTICLE 10 - INSURANCE**

- A. CONTRACTOR shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. CONTRACTOR shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the contract.
- B. **Commercial General Liability** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CONTRACTOR shall provide this

coverage on a primary basis.

- C. **Worker's Compensation Insurance & Employers Liability** CONTRACTOR shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONTRACTOR shall provide this coverage on a primary basis.
- D. **Additional Insured** CONTRACTOR shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONTRACTOR shall provide the Additional Insured endorsements coverage on a primary basis.
- E. **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 to the policy, 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 specifically prohibits such an endorsement, or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.
- F. **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 c/o ERM Director, 2300 N Jog Road, 4<sup>th</sup> Floor, West Palm Beach, FL 33411," or his successor/current address.
- G. **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.
- H. **Watercraft Liability** CONTRACTOR shall provide Watercraft Liability, or equivalent Protection & Indemnity coverage, which shall have minimum limits of \$500,000 per occurrence combined single limit for bodily injury and property damage. Coverage shall include "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents" as an Additional Insured.

This coverage requirement may also be satisfied via endorsement to the CONTRACTOR'S Commercial General Liability policy with a "CG 24 12 Boats" endorsement or similar endorsement.

## **ARTICLE 11 - INDEMNIFICATION**

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

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

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

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

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

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 14 - CONFLICT OF INTEREST**

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, 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 15 - EXCUSABLE DELAYS**

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 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 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**ARTICLE 21 - NONDISCRIMINATION**

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

Contractor has submitted to the County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as may be amended, or in the alternative, if the 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 County that Contractor will conform to the County's non-discrimination policy as provided in R-2014-1421, as may be amended.

**ARTICLE 22 - AUTHORITY TO PRACTICE**

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

**ARTICLE 23 - SEVERABILITY**

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

**ARTICLE 24 - PUBLIC ENTITY CRIMES**

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

**ARTICLE 25 - MODIFICATIONS OF WORK**

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

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

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

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

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

Director  
Department of Environmental Resources Management  
2300 North Jog Road, 4<sup>th</sup> Floor  
West Palm Beach, FL 33411-2743

With copy to:

Palm Beach County Attorney's Office  
301 North Olive Ave.  
West Palm Beach, Florida 33401

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

Gregory Reynolds  
Lagoon Keepers.org  
P.O. Box 14932  
North Palm Beach, FL 33408

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

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

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



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 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.

**ARTICLE 29 - REGULATIONS; LICENSING REQUIREMENTS:**

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

**ARTICLE 30 – PUBLIC RECORDS REQUIREMENT:**

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.

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

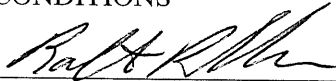
BY: \_\_\_\_\_  
DEUPUTY CLERK

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS  
AND CONDITIONS

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

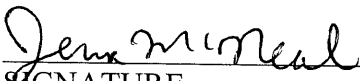
BY:  \_\_\_\_\_  
DIRECTOR, ENVIRONMENTAL  
RESOURCES MANAGEMENT

\_\_\_\_\_  
DATE

3/21/17  
\_\_\_\_\_  
DATE

WITNESS:

LAKE WORTH LAGOON  
ENVIRONMENTAL DEFENSE FUND, INC.

 \_\_\_\_\_  
SIGNATURE

 \_\_\_\_\_  
SIGNATURE

Jena m cneal  
NAME (TYPE OR PRINT)

BY: GREG REYNOLDS  
NAME (TYPE OR PRINT)

ITS: PRESIDENT  
TITLE

(CORPORATE SEAL)

**EXHIBIT A**  
**SCOPE OF WORK**  
**Marine Debris and Derelict Vessel Removal Services**

CONTRACTOR will remove marine debris within portions of eight County Natural Area Projects, namely Osprey Park, Currie Park, South Cove, Snook Islands, Ibis Isles, Bryant Park Wetlands and Shoreline, Jewell Cove and Grassy Flats (see maps attached hereto and incorporated herein). Access will require a boat or vessel of an appropriate size to navigate the above-cited Natural Areas without creating damage to the sites and include areas along the rock wave breaks and islands/mangrove planters not accessible by land. Marine debris removal includes but is not limited to non-biodegradable items such as bags, styrofoam cups, balloons, all plastics, fishing lines and nets, traps, as well as glass, metal, rubber and wood products. CONTRACTOR will also be responsible to dispose of and/or recycle all materials at the Solid Waste Authority.

Marine debris removal events shall be performed each quarter of the calendar year and completed by: July 31; October 31; January 31, and April 30 for each year through the beginning of 2020. Within one week notification by the COUNTY, the CONTRACTOR will remove marine debris for a particular site as requested by the COUNTY. This event will satisfy the quarterly requirements for that site.

During each cleanup event, CONTRACTOR will note the approximate quantity of trash collected at the sites and include this information in the annual report. Annual reports will be due April 2nd following the end of each calendar year for the 3 year term.

CONTRACTOR will remove vessels which have been lawfully determined by the Florida Fish and Wildlife Commission, or other law enforcement entity, to be derelict or abandoned within the meaning of Florida Statutes. Vessels which have been lawfully tagged as derelict, abandoned or at-risk may be removed from the waters of Palm Beach County. Contractor will receive specific instructions from the County as to which vessels may be removed under this contract. For its part, the County will receive vessel-specific authorization from FWC or other law enforcement entity prior to directing Contractor to remove a vessel. Additionally, Contractor will seek other potential funding as match to increase the number of derelict or abandoned vessels removed.

**SCHEDULE OF PAYMENTS**

The Scope of Work shall be completed by CONTRACTOR as defined in Exhibit "A". Compensation for the work tasks stated herein shall be in accordance with the following Schedule of Payments:

**ANNUAL WORK EFFORT**

Task(s) to be completed: Quarterly marine debris removal at Osprey Park, Currie Park, South Cove, Snook Islands, Ibis Isles, Bryant Park Wetlands and Shoreline, Jewell Cove and Grassy Flats;

Marine debris removal events shall be performed each quarter of the calendar year and completed by: July 31; October 31; January 31 and April 30 for each year through the beginning of 2020.

Quarterly Reports would be due within 30 days of each completed quarter and include dates and quantities of marine debris removed for each site.

Annual Reports will include the four quarterly reports and due each April 2 beginning in 2017 through 2020.

Compensation: \$6,325 per quarterly event or \$25,300 annually for up to three years;

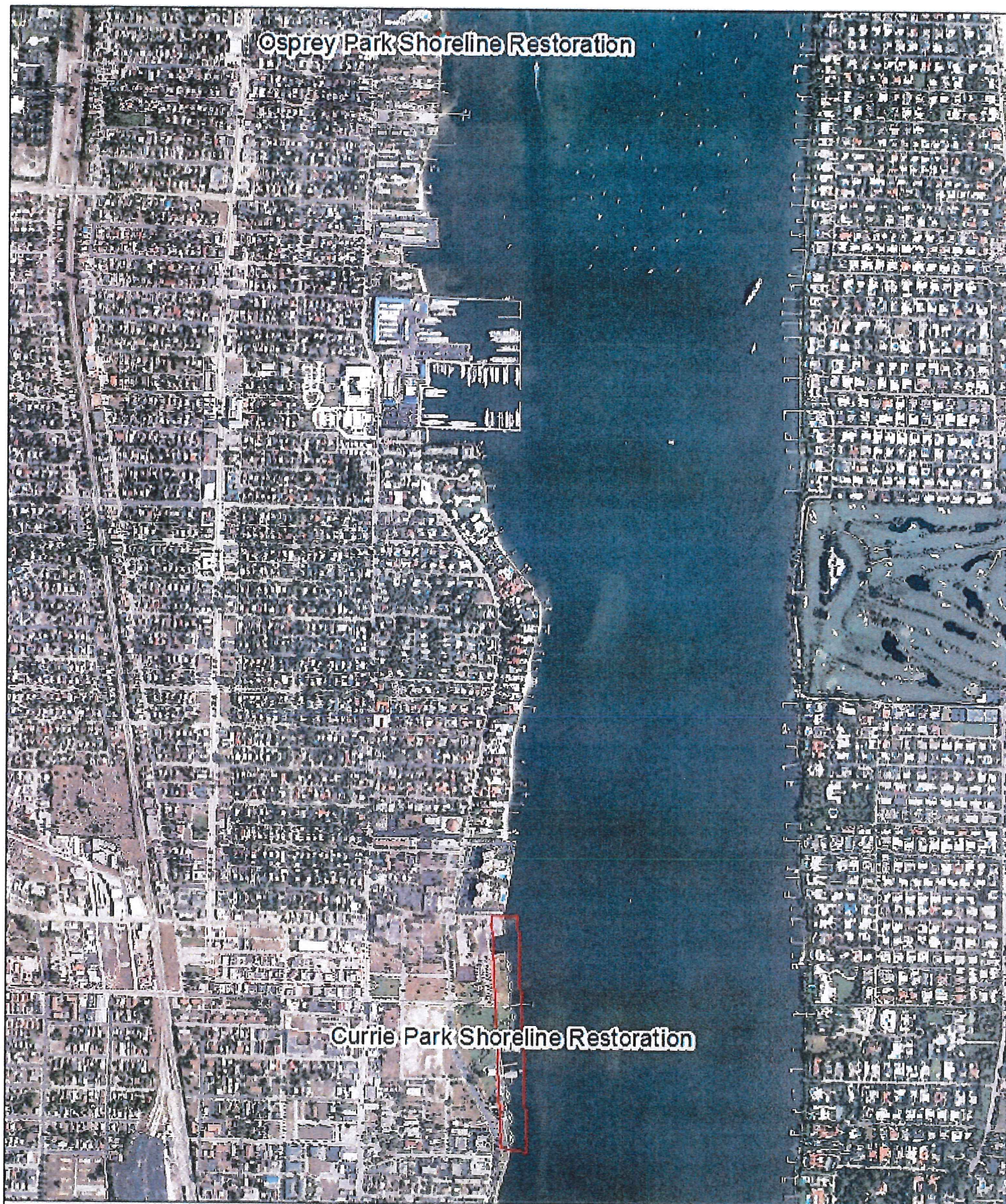
\* Deliverable(s) Required: Quarterly and Annual Reports for each of three years.

All costs associated with the removal of derelict vessels will be itemized and submitted to the County for payment approval. Costs cannot exceed \$45,300 annually or \$135,900 for up to three years.

**Total= \$135,900.00**

\* Deliverables shall be defined as quarterly and annual reports indicating quantities and approximate locations of marine debris removed from the County project sites.





Palm Beach County Department of  
Environmental Resources Management  
2300 North Jog Road, 4th Floor  
West Palm Beach, Florida 33411-2741  
(561) 233-2400

## Lake Worth Lagoon Keepers



0 550 1,100 2,200 Feet

Prepared by:

Text

Date: 3/3/2017





South Cove Natural Area



Palm Beach County Department of  
Environmental Resources Management  
2300 North Jog Road, 4th Floor  
West Palm Beach, Florida 33411-2741  
(561) 233-2400

## Lake Worth Lagoon Keepers

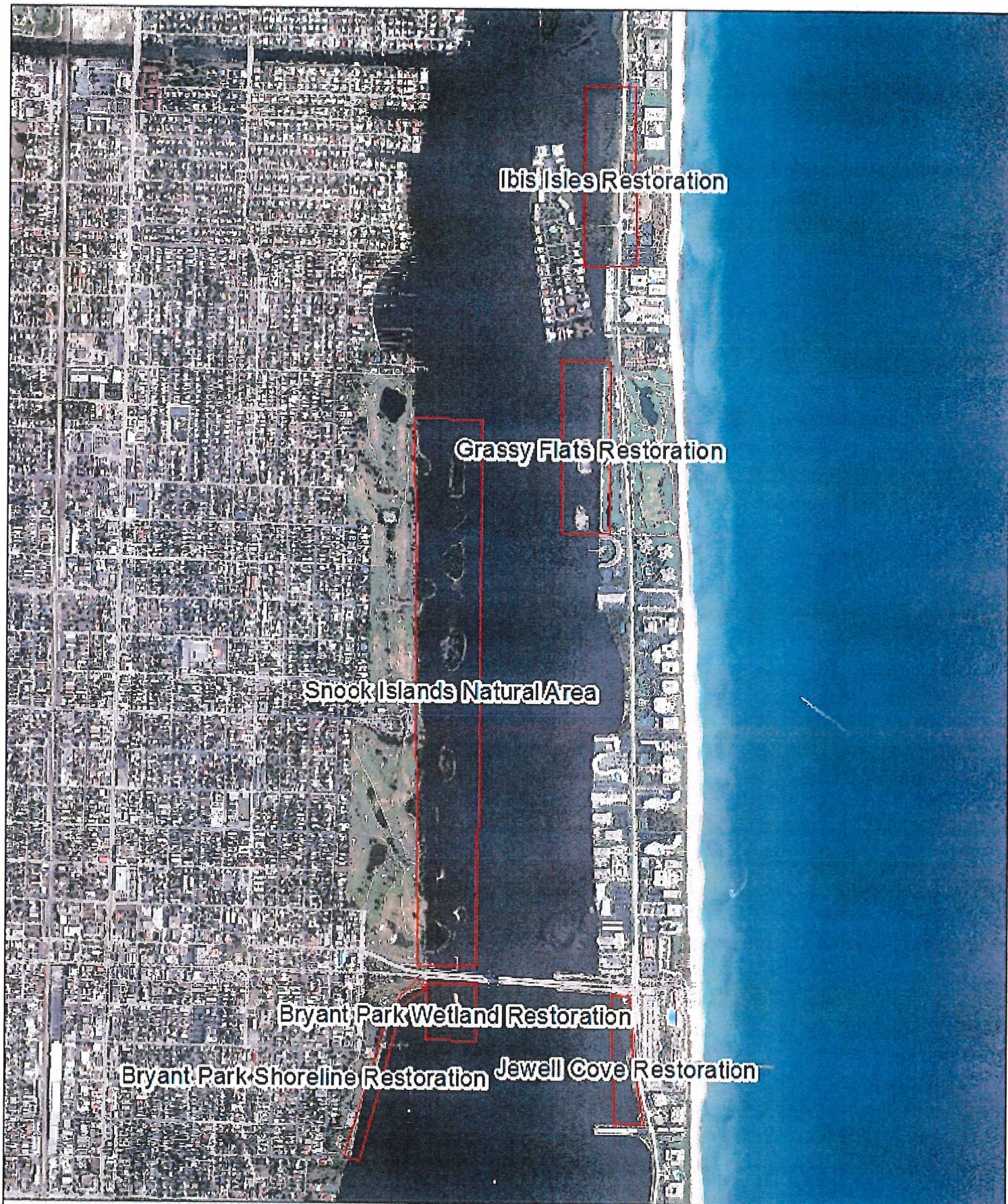


0 350 700 1,400 Feet

Prepared by:  
Text

Date: 3/3/2017





Palm Beach County Department of  
Environmental Resources Management  
2300 North Jog Road, 4th Floor  
West Palm Beach, Florida 33411-2741  
(561) 233-2400

## Lake Worth Lagoon Keepers



0 750 1,500 3,000 Feet

Prepared by:  
Text  
Date: 3/3/2017





## Attachment 1

### Best Management Practices for DV removal

#### Derelict Vessel Removal Process

Derelict vessels are existing impacts to the environment as well as boating safety hazards, impediments to navigation, and esthetic nuisances. Typically these vessels are found grounded on the edges of active waterways where they may have physical impacts on benthic and shoreline communities. However, the impact of these vessels is not limited to their immediate location. If left unattended, the influences of winds and tides continue to push the boats causing greater impact as they become more deeply mired into the environment. Early extraction of these vessels will avoid and minimize the environmental impacts. In addition to these physical impacts resulting from the movement of these vessel through the environment; there is the long term effect caused by their continued degradation and decay in the marine environment. These vessels may be constructed of various materials, such as wood, steel, aluminum, or fiberglass; each having varying degrees of resilience and can remain in the marine environment for extended periods of time. With the progression of time; the environmental impacts increase with the shading from the hull and displacement of live bottom and emergent vegetative communities resulting from the expansion of the debris field as the vessels disintegrates. The impacts resulting from the removal of these vessels during any stage is less than the impacts caused by the long-term presence of the vessel in the marine environment. Therefore the early detection and removal of these abandoned and derelict vessels is the best means of minimizing the individual or cumulative impacts to the environment.

#### Derelict Vessel Removal (FDEP) Permit Exemption

An Exemption under Florida Administrative Code Chapter 62-330-051(5)(g) by Florida Department of Environmental Protection, has been established for the removal of derelict vessels. Based on the presumption that the extraction of these vessels from the marine environment will cause only minimal environmental impacts and in turn avoid the long-term impacts resulting from the degradation of the vessel at it current location. The environmental impacts are ameliorated by the application of the best management practices referenced below.

#### Florida Administrative Code Chapter 62-330-051(5)(g)

(g) The removal of derelict vessels, as defined in Section 823.11(1), F.S., by federal, state, and local agencies, provided:

1. The derelict vessel case has been completed as specified in Section 705.103, F.S., and has been entered into the Statewide Derelict Vessel Database maintained by the Florida Fish and Wildlife Conservation Commission;



2. All work is done in a manner that, to the greatest practicable extent, avoids additional dredging or filling, grounding or dragging of vessels, and damage to submerged resources such as seagrass beds, oyster beds, coral communities, mangroves, other wetlands, and live bottom; and
3. An absorbent blanket or boom shall be immediately deployed on the surface of the water around the derelict vessel if fuel, oil, or other free-floating pollutants are observed during the work.

#### General Derelict Vessel Removal and Environmental Protection Best Management Practices

The following best management practices (BMP's) will be employed by the marine contractor during the removal of derelict vessels. These BMP's will be incorporated into the contract for each vessel removal project. The marine contractor selected for the project will be required to show proof of their ability to meeting the BMP requirements with their contingency of equipment, staff and expertise in the removal of derelict vessels.

Compliance with these BMP's will be monitored by the County and by local Florida Fish and Wildlife Conservation Commission law enforcement officers. These BMP's are as follows:

a. All Work Is To Meet The Following Requirements:

1. Operations are to be limited to daylight hours.
2. Operations are to be staged from an upland area.
3. All work is to be performed in a manner that avoids and/or minimizes impacts to live bottom and other resource areas (e.g., seagrass beds, oyster beds, wetlands, mangroves, and other sensitive habitats) while approaching, working in, and leaving the derelict vessel site.
4. All work shall avoid impacts to manatees, sea turtles, and other species listed by the state and federal government as threatened or protected.
5. The Contractor will remove all contaminants and pollutants including fuels, batteries, paints, solvents, and engine from the derelict vessel prior to extraction. Any contaminant or pollutant found to be contained within a derelict vessel shall be removed by the Contractor, placed in an approved container, and disposed of properly. The placement of an absorbent blanket on the surface of the water around the derelict vessel within the turbidity barrier is required where free floating product (gas/oil) is observed.
6. The Contractor is to provide appropriate best management practices (BMPs) approved by the Florida Department of Environmental Protection for erosion control and turbidity protection while each derelict vessel is being removed. In areas of low to moderate currents, a Type II floating turbidity barrier will be

installed within a ten (10) foot radius of the vessel being removed prior to starting any removal activities. The turbidity barrier shall be anchored to the bottom of the waterway.

7. The Contractor is to provide appropriate BMPs for erosion control and turbidity prevention around the vessels/barges being used to remove the derelict vessel and around the perimeter of any upland staging site (where necessary).
8. The Contractor is to monitor turbidity levels throughout removal work.
9. In an effort to reduce turbidity, a crane, winch and/or approved alternate method is to be used to raise the derelict vessel from the water.
10. The Contractor will measure turbidity levels and allow them to return to a level that is not in excess of 20 NTU's over initial turbidity readings prior to removal of turbidity measures.
11. The dragging of vessels is to be avoided both on and off-shore. All vessels/barges used in vessel removal shall continually monitor water depths to avoid running aground.
12. The Contractor will load derelict vessels onto a barge and/or flat bed truck (or similar) for proper disposal.
13. The Contractor is to photo-document all removals as described in Item 6 below with pictures taken before, during and after removal. The Contractor will provide a daily written report of all removal activities.

b. For Derelict Vessels That Are Floating Or Lightly Aground:

1. The vessel is to be pumped out as needed and extracted (floated out) during high water.
2. Following extraction, the vessel is to be towed from the grounded location to a boat ramp or other removal point while avoiding and/or minimizing impacts to live bottom areas.

c. For Derelict Vessels That Are Hard Aground:

1. The vessel is to be approached using shallow draft vessels.
2. The vessel is to be extracted using a crane from a shallow draft deck barge, by hand using the best available tools, or similar approach to minimize impacts to the site and surrounding areas.

d. For Derelict Vessels Sunken In Shallow Water:

1. Install and inflate flotation bags as needed.
2. Lift the vessel with barge mounted crane or similar equipment.

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

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE PALM BEACH COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT TO UTILIZE A PORTION OF THE POLLUTION RECOVERY TRUST FUND FOR MARINE DEBRIS AND DERELICT VESSEL REMOVAL WITHIN THE INLAND WATERWAYS OF PALM BEACH COUNTY.**

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida adopted Resolution No. R-89-576 on April 4, 1989, establishing the Palm Beach County Pollution Recovery Trust Fund (PRTF) to receive monies collected in instances of environmental violations; and

WHEREAS, it has been established that monies from the PRTF shall be disbursed only for enhancement of environmental resources and pollution control activities in Palm Beach County; and

WHEREAS, the Palm Beach County Department of Environmental Resources Management (ERM) manages marine debris and derelict vessel removal activities; and

WHEREAS, ERM has constructed many environmental enhancement and restoration projects throughout the estuarine waterways of Palm Beach County with a focus on Lake Worth Lagoon; and

WHEREAS, it is important to protect these projects as well as the existing natural resources from the accumulation of marine debris and vessel groundings; and

WHEREAS, the Director of Environmental Resources Management recommends the Board of County Commissioners authorize the Clerk of the Court to disburse Pollution Recovery Trust Fund monies in the amount of \$150,000 to cover costs of a three-year Contract with Lagoon Keepers.org for ongoing marine debris and derelict vessels removal activities, including contingences.

(Remaining portion of this page has been intentionally left blank.)

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 of County Commissioners hereby authorizes the Clerk to disburse funds of \$150,000 for marine debris and derelict vessel removal activities within the inland waterways of Palm Beach County.

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:

Commissioner Paulette Burdick, Mayor	_____
Commissioner Melissa McKinlay, Vice Mayor	_____
Commissioner Hal R. Valeche	_____
Commissioner Dave Kerner	_____
Commissioner Steven L. Abrams	_____
Commissioner Mary Lou Berger	_____
Commissioner 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 & Comptroller

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

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

2017 -

BGEX - 030717\*1021


BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA

BUDGET TRANSFER  
FUND 1227 Pollution Recovery Trust Fund -Lake Worth Lagoon Monitoring

ACCOUNT NAME AND NUMBER		ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENC/EXP 3/7/2017	REMAINING BALANCE
<u>Appropriations</u>								
<u>LWLP Monitoring Project</u>								
380-4008	3401 Other Contractual Services	0	0	150,000	0	150,000	44,789	105,211
<u>Reserve -Pollution</u>								
760-3199	9902 Operating Reserves	1,432,062	1,388,347	0	150,000	1,238,347		1,238,347
				150,000	150,000			

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  
\_\_\_\_\_  
May 2, 2017  
\_\_\_\_\_  
Deputy Clerk to the  
Board of County Commissioners