

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 18, 2018

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF


Motion and Title: Staff recommends motion to: **A) receive and file** a fully executed 2018 South Florida Water Management District (SFWMD) Indian River Lagoon License Plate Funding Agreement No. 4600003895 for a culvert replacement project at Riverbend Park for the period October 26, 2018, through October 25, 2019; and **B) approve** Budget Amendment of \$75,000 within the Park Improvement Fund to establish budget for the approved grant; and **C) approve** Budget Transfer of \$65,559 within the Park Improvement Fund from General Recreation Facilities Repair and Renovation to Riverbend Park culvert replacement project.

Summary: On September 18, 2018, the Board authorized submission of an Indian River Lagoon License Plate grant application to the SFWMD, R2018-1410, requesting \$87,593 for the replacement of a culvert at Riverbend Park. The grant is funded through the sale of specialty license plates sold in Palm Beach County. SFWMD asked the County to accept reduced funding in the amount of \$75,000 in order to partially fund a competing grant application. The grant requires a minimum 25% County match and the grant will be matched with \$65,559 or 47% from the Parks and Recreation Department Capital Budget. The Board also authorized the County Administrator or designee to execute the grant funding Agreement, SFWMD Agreement, and other standard state and/or federal grant forms related to this project if the grant was approved. This grant was approved, the SFWMD Agreement has been fully executed, and is now being submitted to the Board to receive and file. This grant agreement runs from October 26, 2018, through October 25, 2019. District 1 (AH)

Background and Justification: Riverbend Park is located south of Indiantown Road in northern Palm Beach County and serves as the recreational gateway to the Northwest Fork of the Loxahatchee National Wild and Scenic River. One of Riverbend Park's original culvert/water control structures which manages the flow of water out of the park is broken beyond repair and requires replacement. This project will replace the 30 year old culvert/water control structure with a new 42", 120' long corrugated aluminum pipe/control structure. This control structure, when functioning normally, holds water inside of the park instead of flowing directly into the Loxahatchee River. Impounding water within the Park serves two functions: to allow the Park's wetlands to naturally filter and purify the water before being released into the River, and to keep water levels high enough to have over five miles of functional canoe/kayak trails within the Park.

Attachments:

1. Funding Agreement
2. Budget Amendment
3. Budget Transfer

Recommended by: 
Department Director

12/5/18
Date

Approved by: 
Assistant County Administrator

12/13/18
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	<u>140,559</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>(75,000)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>65,559</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE
POSITIONS (Cumulative) 0

Is Item Included in Current Budget? Yes _____ No X
Does this item include the use of federal funds? Yes _____ No X

Budget Account No.: Fund _____ Department _____ Unit _____
Object _____ Program _____


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

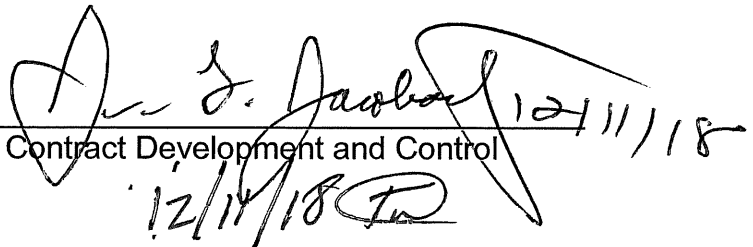
SFWMD grant	3600-582-P865	\$75,000
General Recreation Facilities Repair & Renovation	3600-581-P837	<u>\$65,559</u>
Total Grant Project Cost		\$140,559

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

 12/12/18
OFMB 12/12/18

 12/11/18
Contract Development and Control 12/11/18

B. Legal Sufficiency:

 12-12-18
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 10/95
ADM FORM 01

This summary is not to be used as a basis for payment

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT

Page 1 of 1

BGRV 582 103018*58
BGEX 582 103018*264

FUND 3600 - PARK IMPROVEMENT

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/30/18	REMAINING BALANCE
<u>REVENUES</u>								
3600-582-P865-6694	Grant From Oth Non-Govt	0	0	75,000		75,000	0	75,000
TOTAL RECEIPTS & BALANCES		12,941,906	11,834,573	75,000		11,909,573		
<u>APPROPRIATIONS</u>								
3600-582-P865-6506	Improvements IOTB-Infrastructure	0	0	75,000		75,000	0	75,000
TOTAL APPROPRIATIONS & EXPENDITURES		12,941,906	11,834,573	75,000		11,909,573		

Parks and Recreation Department
INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

Signatures

Date



11-9-18

By Board of County Commissioners

At Meeting of

December 18, 2018

Deputy Clerk to the Court

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER

Page 1 of 1

BGEX 581 103018*266

FUND 3600 - Park Improvements

ACCT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 10/30/18	REMAINING BALANCE
Reserves								
3600-581-P837-4611	Rep/Renov-Parks & Recreation	89,468	86,535		65,559	20,976	0	20,976
Riverbend Park Culvert Replacement								
3600-581-P865-6506	Improvements IOTB-Infrastructure	0	0	65,559		65,559	0	65,559
TOTAL				<u>65,559</u>	<u>65,559</u>			

Signatures

Date

Parks and Recreation Department
INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

Eric Call 11-9-18

By Board of County Commissioners
At Meeting of
December 18, 2018
Deputy Clerk to the Court



2018 SOUTH FLORIDA WATER MANAGEMENT DISTRICT
INDIAN RIVER LAGOON LICENSE PLATE FUNDING AGREEMENT

Recipient: Palm Beach County Board of County Commissioners Recipient's Project Manager: Jean Matthews, Senior Planner, PBC Parks & Recreation Department Address: 2700 6 th Avenue South Lake Worth, FL 33461 Telephone No.: 561-966-6652	Agreement Number: 4600003895 PO Number: 9500007787 Must reference above on all invoices. District Funding Amount: \$75,000
SFWMD Project Manager: Kathy LaMartina Telephone No.: (561) 602-8407 Email: klamart@sfwmd.gov Contract Specialist: Dora Dixon Telephone No.: (561) 682-6420 Email: ddixon@sfwmd.gov Address: 3301 Gun Club Road P.O. Box 24680 West Palm Beach, FL 33416-4680	
Insurance: NA	
Federal Employer Identification Number: 59-60000785	
Project Title: Riverbend Park Culvert / Water Control Structure Replacement Project Description: Replace 30-year-old damaged culvert / water control structure.	

This **Agreement** is entered into between "the Parties", the South Florida Water Management **District**, (the "**District**"), and the undersigned Applicant, hereinafter referred to as the "**Recipient**". The **Recipient** warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms and conditions of this **Agreement**, and shall abide by all legal, financial, and reporting requirements, such as matching funds and final reports for all funding received by the **Recipient** from the **District**.

ARTICLE 1 – PROJECT

- 1.1 The **Recipient** shall, to the satisfaction of the **District**, fully and timely perform all work items described in the "Statement of Work," attached hereto as Exhibit "A", and made a part of this **Agreement**.
- 1.2 As part of the services to be provided by the **Recipient** under this **Agreement**, the **Recipient** shall substantiate, in whatever forum reasonably requested by the **District**, any supporting documentation utilized as a basis for payment by the **District**. This paragraph shall survive the expiration or termination of this **Agreement**.
- 1.3 Attached to this **Agreement** are the following exhibits which are incorporated herein:
 - Exhibit A:** Statement of Work
 - Exhibit B:** Payment and Deliverable Schedule

ARTICLE 2 - TERM OF THE AGREEMENT

- 2.1 The period of performance of this **Agreement** shall commence on the last date of execution of this **Agreement** and shall continue for a period of one (1) year.
- 2.2 The Parties agree that time is of the essence in the performance of each and every obligation under this **Agreement**.

ARTICLE 3 - COMPENSATION/CONSIDERATION

- 3.1 As consideration for the Project required by this **Agreement**, the **District** shall reimburse the **Recipient** an amount not to exceed the **District** Funding Amount specified on page one (1) of this **Agreement**. Such amount is contingent upon **Recipient's** documentation verifying actual expenditures of the invoiced amount for the **District's** reimbursement of seventy-five (75%) of the project costs and **Recipient's** documentation of at least twenty-five percent (25%) of the total project costs (match). **Recipient's** match may be documented by direct expenses and/or in-kind services. The **District** shall only be obligated to pay for documented actual expenditures within the not-to-exceed amount specified on the cover page of this **Agreement** and therefore, no additional consideration shall be authorized.
- 3.2 The **Recipient** assumes sole responsibility for all work, which shall be performed pursuant to Exhibit "A." By providing funding hereunder, the **District** does not make

any warranty, guaranty, or any representation whatsoever regarding any of the work performed hereunder, including but not limited to the adequacy or sufficiency of all or any part of work described in Exhibit "A".

- 3.3 The **Recipient** hereby agrees that it shall use other sources of funding for all work associated with the design and permitting aspects of the Project. **District** funds shall only be used for the Project and tasks identified in Exhibit "A".

ARTICLE 4 – FUNDING PAYMENTS AND REPORTING

- 4.1 The **District** shall make payment to the **Recipient** upon completion and acceptance of the deliverable(s) as described in the "Payment and Deliverable Schedule", and receipt of a fully documented reimbursement package. The **Recipient's** reimbursement request package shall contain all backup documentation required to substantiate actual expenditures (see Attachment 1 to Exhibit "B"). The request shall include but is not limited to:
- **Recipient's** invoice (include the **District's Agreement** Number and Purchase Order number);
 - Signed certification letter on **Recipient's** letterhead (signed by an authorized representative of the **Recipient**) that the Project has been completed in accordance with Exhibit "A" of this **Agreement**;
 - Tasks completed per the **Agreement** (if all tasks finished, a statement indicating that the project is completed per the **Agreement**); and
 - Vendor invoices/application for payment) for the **District Project Manager(s)** to ascertain that each deliverable in the invoice has been substantially complete.
- 4.2 The **Recipient's** invoice shall reference the **District's** Agreement Number and purchase order number and shall be emailed to APInvoice@sfwmd.gov or mailed to Accounts Payable at the following address:

**South Florida Water Management District
ATTN: Accounts Payable
P.O. Box 24682
West Palm Beach, Florida 33416-4682**

The **Recipient** shall not submit an invoice to any other address at the **District** except as identified in article 4.3.

- 4.3 The **Recipient** shall submit the quarterly reports and all other deliverables, along with copies of all invoices, and documentation of the actual costs incurred and invoiced to the District for its 75% reimbursement and the Recipient's 25% match, to the Project Manager at the following address:

South Florida Water Management District
ATTN: Kathy LaMartina
421 SW Camden Ave. #1
Stuart, FL 34994
Phone: 772-221-4060 Ext. 26
Email: klamart@sfwmd.gov

- 4.4 The **District** shall have the right to inspect all work and review all reports before authorization of payment is made to the **Recipient**. It is the policy of the **District** that payment for all goods and services shall be made in a timely manner and that interest payments are made on late payments. In accordance with the applicable sections of Chapter 218 Florida Statutes; Florida Prompt Payment Act, a "proper" invoice is defined as an invoice that conforms to all statutory requirements and all District requirements as set forth in the **Agreement** for invoice submission. The time at which payment shall be due from the **District** shall be forty-five (45) days from receipt of a proper invoice and acceptance of services and/or deliverables, based on compliance with the statutory requirements set forth in the applicable sections of Chapter 218 Florida Statutes and upon satisfaction of the **District** conditions as detailed in the **Agreement**.

Failure of the **Recipient** to follow the instructions set forth in the **Agreement** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **District**.

Any disputes regarding invoice payments which cannot be resolved by the appropriate department of the **District** shall be concluded by final written decision of the District Procurement Bureau Chief not later than sixty (60) days after the date on which the proper invoice was received by the **District**.

ARTICLE 5 - PROJECT MANAGEMENT

- 5.1 The Parties shall direct all matters arising in connection with the performance of this **Agreement** to the attention of the Project Manager for attempted resolution or action. The Project Manager shall be responsible for overall coordination and oversight relating to the performance of this **Agreement**.
- 5.2 All notices, demands, or other communications regarding this **Agreement**, other than those set forth in paragraph 4.2 above, shall be in writing and forwarded to the attention of both the Project Manager and the Contract Specialist noted on the first page of this **Agreement** by certified mail, return receipt requested.
- 5.3 Should either Party change its address, written notice of such new address shall promptly be sent to the other Party.
- 5.4 All correspondence to the **District** under this **Agreement** shall reference the **District's** Agreement Number.

ARTICLE 6 - INDEMNIFICATION AND INSURANCE

- 6.1 The following indemnification clause shall only be applicable to Investor-owned Utilities or Private Entities:

For value received, which is hereby acknowledged, the **Recipient** shall defend, indemnify, save and hold the **District**, its officers, directors, board members, agents, assigns, and employees, harmless from liabilities, damages, losses, and costs including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrong conduct of the **Recipient** and other persons employed or utilized by the **Recipient** in the performance of the **Agreement**. The **District** shall have the right to approve counsel selected by the **Recipient** to defend the **District** in the event the **District** is named in any legal action.

- 6.2 Government entities will be responsible for their own acts of negligence up to the amounts in Section 768.28, Florida Statutes. The entity assumes any and all risks of personal injury, bodily injury and property damage attributable to negligent acts or omissions. This in no way means that an agency consents to be sued. It should warrant and represent that it is self-funded for Worker's compensation and liability insurance, covering at a minimum bodily injury, personal injury and property damage with protection being applicable to the officers, employees, servants and agents while acting within the scope of their employment during performance under this **Agreement**. It is further agreed that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the wavier provided in Section 768.28, Florida Statutes.

- 6.3 **LIABILITY/INSURANCE:** The **Recipient** shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts of omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time. or any other law providing limitations on claims.

ARTICLE 7 - TERMINATION/REMEDIES

- 7.1 It is the policy of the **District** to encourage good business practices by requiring recipients to materially perform in accordance with the terms and conditions of the **Agreement**. In accordance with **District** Rule 40E-7, Part II, Florida Administrative Code, "material breach" is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the **Agreement**.

If the **Recipient** materially fails to fulfill its obligations under this **Agreement**, the **District** will provide written notice of the deficiency by forwarding a Cure Notice citing

the specific nature of the material breach. The **Recipient** shall have thirty (30) days to cure the breach. If the **Recipient** fails to cure the breach within the thirty (30) day period, the **District** shall issue a Termination for Default Notice. Once the **District** has notified the **Recipient** that it has materially breached its contract with the **District**, by sending a Termination for Default Notice, the **District's** Governing Board shall determine whether the **Recipient** should be suspended from doing future work with the **District**, and if so, for what period of time. The **District's** Governing Board may consider the factors detailed in Rule 40E-7, Part II, Florida Administrative Code in making a determination as to whether a **Recipient** should be suspended, and if so, for what period of time. Should the **District** terminate for default in accordance with this provision, the **District** shall be entitled to recover procurement costs in addition to all other remedies under law and/or equity.

- 7.2 The **District** may terminate this **Agreement** at any time for convenience upon thirty (30) calendar days prior written notice to the **Recipient**. The performance of work under this **Agreement** may be terminated by the **District** in accordance with this clause in whole, or from time to time in part, whenever the **District** shall determine that such termination is in the best interest of the **District**. Any such termination shall be affected by delivery to the **Recipient** of a Notice of Termination specifying the extent to which performance of work under the **Agreement** is terminated, and the date upon which such termination becomes effective. In the event of termination for convenience, the **District** shall compensate the **Recipient** for all authorized and accepted work performed through the termination date. The **District** shall be relieved of any and all future obligations hereunder, including but not limited to, lost profits and consequential damages under this **Agreement**. The **District** may withhold all payments to the **Recipient** for such work until such time as the **District** determines the exact amount due to the **Recipient**.
- 7.3 In the event a dispute arises, which the Project Managers cannot resolve between themselves, the Parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties, and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law.

ARTICLE 8 - RECORDS RETENTION

- 8.1 The **Recipient** shall maintain records and the **District** shall have inspection and audit rights as follows:
- A. Maintenance of Records. The **Recipient** shall maintain all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this **Agreement**, including supporting documentation for any service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five (5) years from completing performance and receiving final payment under this **Agreement**.
 - B. Examination of Records. The **District** or its designated agent shall have the right to examine in accordance with, generally accepted governmental auditing standards all records directly or indirectly related to this **Agreement**. Such

examination may be made only within five (5) years from the date of final payment under this **Agreement** and upon reasonable notice, time and place.

- C. **Extended Availability of Records for Legal Disputes.** In the event that the **District** should become involved in a legal dispute with a third party arising from performance under this **Agreement**, the **Recipient** shall extend the period of maintenance for all records relating to the **Agreement** until the final disposition of the legal dispute, and all such records shall be made readily available to the **District**.

8.2 Public Records

- A. **Compliance with Florida Laws:** **Recipient** must provide public access to all records concerning this Agreement according to applicable Florida laws including Chapter 119, Florida Statutes. If **Recipient** asserts any exemptions to Florida's public records laws, Recipient has the burden of establishing and defending the exemption. Recipient's failure to comply with this section is a breach of this **Agreement**.
- B. **Recordkeeping and Public Access:** Under the applicable sections of Chapter 119, Florida Statutes a request to inspect or copy public records relating to a District contract for services must be made directly to the District. In addition, **Recipient** must: (1) keep and maintain public records required by the District in order to perform the service; (2) upon request from the District's custodian of public records, provide the District 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 by law; (3) 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 **Agreement** term and following completion of the **Agreement** if the **Recipient** does not transfer the records to the District; and (4) transfer, at no cost, to the District, all public records in possession of the **Recipient** or keep and maintain public records required by the District to perform the service. If the **Recipient** transfers all public records to the District upon completion of the Agreement, the **Recipient** shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the **Recipient** keeps and maintains public records upon completion of the **Agreement**, the **Recipient** shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the District upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District. At the conclusion of the **Agreement** with the District, **Recipient** shall provide all applicable records associated with this Agreement on electronic media (CD-ROM or USB flash drive).

C. IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NUMBER (561) 682-2729, EMAIL ADDRESS PUBLICRECORDS@SFWMD.GOV AND MAILING ADDRESS: 3301 GUN CLUB ROAD, WEST PALM BEACH, FL 33406.

ARTICLE 9 - STANDARDS OF COMPLIANCE

- 9.1 The **Recipient**, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this **Agreement**. The **District** undertakes no duty to ensure such compliance, but will attempt to advise the **Recipient**, upon request, as to any such laws of which it has present knowledge.
- 9.2 The laws of the State of Florida shall govern all aspects of this **Agreement**. In the event it is necessary for either party to initiate legal action regarding this **Agreement**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justifiable in federal court.
- 9.3 Pursuant to the applicable sections of Chapter 216, Florida Statutes, the **Recipient** is prohibited from the expenditure of any funds under this **Agreement** to lobby the Legislature, the judicial branch, or state agency.
- 9.4 The **Recipient** shall allow public access to all Project documents and materials in accordance with the provisions of Chapter 119 of the Florida Statutes. Should the **Recipient** assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the **Recipient**
- 9.5 The **Recipient** shall obtain, at its sole expense, all necessary licenses, authorizations and permits from the appropriate private party or federal, state, municipal or local agency, and other governmental approvals, prior to commencing performance of this **Agreement**. A delay in obtaining permits shall not give rise to a claim by the **Recipient** for additional compensation. If the **Recipient** is unable to obtain all necessary permits in a timely manner, either party may elect to terminate this **Agreement**, each party to bear its own costs, notwithstanding other provisions of this **Agreement** to the contrary.
- 9.6 The **Recipient** hereby assures that no person shall be excluded on the grounds of race, color, creed, national origin, handicap, age, or sex, from participation in, denied the benefits of, or is otherwise subjected to discrimination in any activity under this **Agreement**. The **Recipient** shall take all measures necessary to effectuate these assurances.

- 9.7 The **Recipient** is hereby authorized to contract with third parties (subcontracts) for services awarded through a competitive process required by Florida Statutes. The **Recipient** shall not subcontract, assign or transfer any other work under this **Agreement** without the prior written consent of the **District's** Project Manager. The **Recipient** agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the **Recipient** that the **District** shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract(s).
- 9.7 Pursuant to Section 287.133 of the Florida Statutes, a person or affiliate who has been placed on the convicted vendor list may not submit a bid, proposal, or reply to a request to provide any goods or services related to the construction of the Project contemplated herein. **Recipient** also assures that it is not on the District's Suspension of Contractors List. **Recipient** agrees to include a provision to this effect in all requests for proposals and subcontracts related to construction of this project.
- 9.8 **Scrutinized Companies.** Recipient shall comply with section 287.135, Florida Statutes. The Recipient further understands and accepts that this **Agreement** shall be either void by the **District** or subject to immediate termination by the **District** in the event there is any misrepresentation or false certification on the part of the Recipient. The **District**, in the event of such termination, shall not incur any liability to the Recipient for any work or materials furnished.

ARTICLE 10 - RELATIONSHIP BETWEEN THE PARTIES

- 10.1 The **Recipient** shall be considered an independent contractor and neither party shall be considered an employee or agent of the other party. Nothing in this **Agreement** shall be interpreted to establish any relationship other than that of an independent contractor between the parties and their respective employees, agents, subcontractors, or assigns, during or after the performance on this **Agreement**. Both parties are free to enter into contracts with other parties for similar services.
- 10.2 The **Recipient** shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this **Agreement** without the prior written consent of the **District**. Any attempted assignment in violation of this provision shall be null and void.
- 10.3 It is the intent and understanding of the Parties that this **Agreement** is solely for the benefit of the **Recipient** and the **District**. No person or entity other than the **Recipient** or the **District** shall have any rights or privileges under this **Agreement** in any capacity whatsoever, either as third-party beneficiary or otherwise.

ARTICLE 11 - GENERAL PROVISIONS

- 11.1 Notwithstanding any provisions of this **Agreement** to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this **Agreement** that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of Government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the Parties.

Failure to perform shall be excused during the continuance of such circumstances, but this **Agreement** shall otherwise remain in effect. This provision shall not apply if the "Statement of Work" of this **Agreement** specifies that performance by the **Recipient** is specifically required during the occurrence of any of the events herein mentioned.

11.2 Any inconsistency in this **Agreement** shall be resolved by giving precedence in the following order:

- (a) Terms and Conditions outlined in Articles 1-11
- (b) Exhibit "A" Statement of Work
- (c) All other exhibits, attachments, and documents specifically incorporated herein by reference

11.3 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this **Agreement** by the Parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other Party from performing any subsequent obligations strictly in accordance with the terms of this **Agreement**. No waiver shall be effective unless in writing and signed by the Party against whom enforcement is sought. Such waiver shall be limited to provisions of this **Agreement** specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

11.4 Should any term or provision of this **Agreement** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this **Agreement**, to the extent that the **Agreement** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

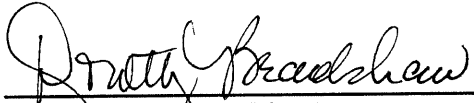

11.5 This **Agreement** may be amended only with the written approval of the Parties.



11.6 This **Agreement** may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this **Agreement** and any signatory hereon shall be considered for all purposes as original.

11.7 This **Agreement** states the entire understanding and **Agreement** between the Parties and supersedes any and all written or oral representations, statements, negotiations or Agreements previously existing between the Parties with respect to the subject matter of this **Agreement**. The **Recipient** recognizes that any representations, statements or negotiations made by **District** staff do not suffice to legally bind the **District** in a contractual relationship unless they have been reduced to writing and signed by an authorized **District** representative. This **Agreement** shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest. This **Agreement** may be amended only with the written approval of the Parties.

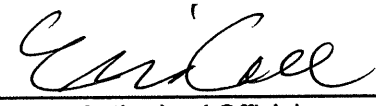
IN WITNESS WHEREOF, the Parties or their duly authorized representatives hereby execute this **Agreement** on the date written below.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

By: 
Dorothy Bradshaw, Director
Administrative Services Division
Date: 10/26/18 

SFWMD Procurement Approved
By:  Date: 10/22/18


PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

By: 
Authorized Official
Title: Director, Palm Beach County
Parks & Recreation Department
Date: October 24, 2018

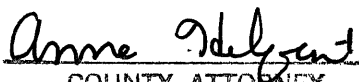
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

COUNTY ATTORNEY

EXHIBIT "A"
STATEMENT OF WORK
RIVERBEND PARK CULVERT / WATER CONTROL STRUCTURE REPLACEMENT
PROJECT

1.0 INTRODUCTION

Riverbend Park is a heavily utilized 665-acre passive regional park located in northern Palm Beach County. The park known for its hiking, equestrian and canoe/kayak facilities, is located along the Loxahatchee River and is the southern-most "wild and scenic" river in the continental United States. The headwaters to the Northwest Fork of the Loxahatchee River is the only surviving example of a subtropical cypress forest river system remaining in Florida.

The park features a series of interconnected waterbodies including wetlands and filtering marshes, providing for over five miles of interior canoe and kayak trails. These water bodies have been planted with native aquatic vegetation including Bladderwort, Bulrush, Spikerush, Fire Flag, Spatterdock, Coontail, Duck Potato and Pickerelweed. These native plants naturally filter and purify the water as it moves through the system.

One of the original culvert/water control structures used to manage the flow of water out of the park is broken beyond repair and requires replacement. This control structure, when functioning normally, holds water inside of the park instead of flowing directly into the Loxahatchee River. Impounding water within the Park serves two functions: to allow the Park's wetlands to naturally filter and purify the water before being released into the River, and to keep water levels high enough to have over five miles of functional canoe/kayak trails that take recreational pressure off the River.

2.0 BENEFITS TO THE INDIAN RIVER LAGOON

Riverbend Park has an extensive system of interconnected water bodies, allowing the Park to hold water during periods of heavy rainfall, thereby reducing pressure on the River. Riverbend's wetlands and littoral plantings naturally purify the water as it flows through the Park, allowing the County to release clean water into the River. Replacement of the culvert/water control structure will allow additional water to be retained in this portion of the park, making additional canoe/kayak trails once again accessible. The Park, with over five miles of canoe/kayak trails, is able to retain much of the Park's boat traffic within the Park which reduces recreational pressure on the River.

3.0 PROJECT LOCATION

The project is located in Riverbend Park, 9060 Indiantown Road, Jupiter, FL 33478. This park is located on the south side of Indiantown Road along the north fork of the Loxahatchee River. The project is located on the Loxahatchee Watershed. Please see attached map.

4.0 SCOPE OF WORK

The project includes replacing a 30-year-old culvert/water control structure with a new 42" corrugated aluminum pipe 120 feet long and associated site work. Associated site work includes removal of the existing structure, excavation, grading, concrete work and installation of coarse aggregate and rip rap.

5.0 WORK BREAKDOWN STRUCTURE

All work will be performed by an annual contractor, who will be responsible for providing all labor, equipment, and supplies. Every effort will be made by the contractor to avoid damage to native vegetation and wildlife. This work will be strictly monitored by Palm Beach County Parks and Recreation Department.

Item	Price
Install 42" corrugated Aluminum Pipe - 120 L.F. & associated site work	\$140,559
Total	\$140,559

6.0 PROJECT COST BREAKDOWN AND TASK / DELIVERABLE SCHEDULE

Project element	Start Date	Completion Date
Site work and installation of culvert/water control structure	October 15	December 15
Grant closeout documentation	December 15	February 15

Work is expected to commence within 30 days of full execution of the funding agreement and take 30-60 days to complete.

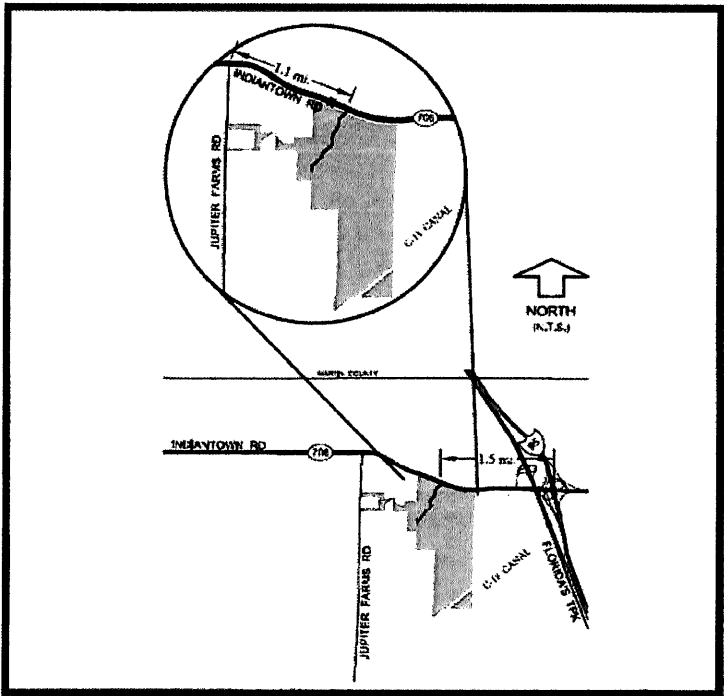
The Parks and Recreation Department is requesting **\$87,593** in grant funding from the Indian River Lagoon License Plate Fund. This represents **62%** of the total project costs of **\$140,559**. The County will provide **\$52,966** or **38%** in matching funds.

The County received a cost estimate from Wynn & Sons Environmental Construction Company, Inc. on July 3, 2018 for \$140,559

RIVERBEND PARK CULVERT/WATER CONTROL STRUCTURE REPLACEMENT
PROJECT



Riverbend Park is located on the south side of Indiantown Road, west of the Florida Turnpike





Riverbend Park is known for its hiking, biking, equestrian and canoe/kayak trails





Canoe/Kayaking through the mature cypress trees brings nature to park patrons, photo below taken near culvert, trail in the area is closed due to reduced water levels





Biking and equestrian trail riding are popular activities





Riverbend is known for its wildlife





Replacement of the culvert/water control structure will allow water to be retained in Riverbend Park, creating additional canoe/kayak trails reducing recreational pressure on the Loxahatchee River



EXHIBIT "B"
PAYMENT AND DELIVERABLE SCHEDULE

Recipient may invoice the District requesting a reimbursement of 75% of the total costs to complete each deliverable within the not-to-exceed maximum amount shown below. Payment is contingent upon the Recipient providing documentation with each invoice showing actual expenditures, including its minimum 25% cost share, as well as providing the deliverables as described in the Payment and Deliverable Schedule. The District shall only be obligated to reimburse for documented actual expenditures within the not-to-exceed amounts specified below.

All deliverables submitted hereunder are subject to review and acceptance by the District. Acceptability of all work will be based on the judgment of the District that the work is technically complete and accurate.

The Recipient shall be responsible for submitting Quarterly Reports starting after the first quarter following Agreement execution to the District Project Manager. The Recipient shall deliver to District a complete set of deliverables for this task including a summary sheet of all invoices paid for each period. The Recipient shall be responsible for all aspects of managing and completing the project as described in Exhibit "A".

TASK	DELIVERABLES (quarterly and final reports)	SCHEDULE (time from contract execution)	COST MATCH	NOT TO EXCEED AMOUNT
Replace Culvert	Photos, as-builts, completion documentation	30 – 60 days	\$65,555	\$75,000

Attachment 1

Documentation Required for all Contract Payments

Listed below are the minimum requirements for documentation to support invoice payment requests. Additional requirements may be in effect for this contract depending on the source of funds for this work.

Contractors and Recipients performing work must maintain accurate books, records, documents and other evidence that sufficiently and properly support all direct and indirect costs expended in the performance of the contract or agreement. The Contractor or Recipient shall allow the District, Federal, State, or other parties providing contract funding, access to periodically inspect, review or audit such documents as books, vouchers, records, reports, canceled checks, payroll registers or any and all similar material as deemed necessary. These records shall be maintained for five years following the close of the contract or agreement.

Project deliverables and services performed by the Contractor or Recipient should be in a proper and satisfactory manner as described in the Statement of Work. Only Contractor or Recipient expenditures for goods, services and other deliverables falling within the categories agreed to pursuant to the Statement of Work and approved contract budget should be paid. All costs should be reasonable, appropriate, necessary, valid and eligible. Expenditures should be made in accordance with applicable laws, rules and regulations and complete (transactions are documented, and all funds are accounted for).

Expenditures for periods prior to the current billing period will only be approved if supported by adequate documentation along with a written explanation as to why the expense was not submitted during the correct billing period.

Expenditures for work performed prior to the execution of an agreement are not allowable unless specifically provided for in the contract.

Invoices for fixed unit rate contracts must show the number of service units being billed, the cost per unit, and be in agreement with contract terms and conditions.

In detail, invoices and the documentation accompanying invoices for services under contracts which are not fixed price must include the following:

1. The beginning and end date of the work period being invoiced should be specified on all contractor, Recipient and subcontractor invoices. The invoice date and the date of services and deliverables provided should not precede the date that a contract was executed unless specifically provided for in the contract. Similarly, the end date of contracts and related agreements should not be exceeded in terms of invoice dates, services, etc. without the execution of a contract amendment. Deliverables should be specifically quantifiable, measurable, and verifiable. The completion of all tasks/services included in the Statement of Work should be required to meet all deliverables prior to approval for final Contractor or Recipient payment.
2. Detailed description of material purchased, work completed, and/or service performed, in direct relation to each project or project component, along with project name or number should be provided.

3. Supporting documentation for each invoice should be complete, mathematically accurate, sufficient in detail, and verifiable.
 - a. The invoicing of labor costs, if applicable, should be accompanied by documentation supporting the pay rate and the employees' job title along with approved timesheets covering the period of service. Pay rates and job titles must agree to rates and job titles specified in the contract. Summary schedules should be supported by detailed records totaling the amounts on the summary schedule. The Contractor or Recipient must maintain and provide upon request the relevant payroll register pages covering the period of service.
 - b. If the contract specifies that indirect costs may be charged based on a specified rate, then the calculation must be provided. In the absence of this indirect costs will not be allowable.
 - c. Purchases or rental of commodities such as materials, equipment, tools, etc. should be accompanied by an invoice or receipt from the supplier that describes what was purchased, the date of purchase, the number of units, and the cost per unit. Purchases should be allowable per the agreement, directly related to the scope of work, reasonable and within the agreement period.
 - d. Invoices for services provided should be in sufficient detail as to determine 1) what was provided (to determine how it relates to the overall contract); 2) when the services were provided (to determine whether the amounts being billed pertain to the correct period); 3) the unit price and total cost of what was provided (to determine whether it's reasonable given the task performed); and 4) minimum performance standards were achieved in accordance with contract requirements and expectations.
 - e. If the contract allows for the separate billing of travel costs such costs must comply with the District's travel policy which includes the submission of a completed District provided *Travel Expense Reimbursement* form along with documentation of all travel expense items listed on the form. If the District's form is not used, the form must contain the same information as provided in the District's form.
 - f. Vehicle and/or equipment allowance and usage charges should be reported in detail by number of hours used and dates of use. Contractors/Recipients must maintain documentation by use of a log that shows the vehicle/equipment description, the location where the item was in use, if a vehicle it should show the beginning and ending odometer readings along with total mileage and if a piece of equipment it should show the beginning and ending times that the equipment was in use for and who the operators were. A copy of the log for the applicable time frame must be submitted with the invoice package. Usage of vehicles and equipment should be reasonable based on the task being performed and agree to the rates as specified in the contract.
 - g. The requirements above also apply to subcontractors.