



**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	<u>\$35,000</u>	<u>\$427,009</u>	<u>\$469,229</u>	<u>\$483,306</u>	<u>\$92,223</u>
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>\$35,000</u>	<u>\$427,009</u>	<u>\$469,229</u>	<u>\$483,306</u>	<u>\$92,223</u>

# ADDITIONAL FTE POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget?      Yes   X        No \_\_\_\_\_

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:**

	<u>Not to Exceed</u>
3652-381-M045-3401 - Jupiter/Carlin Shoreline Protection	\$753,382.09
3652-381-M028-3401 - Juno Beach Shoreline Protection	\$753,382.09

**C. Department Fiscal Review:**

\_\_\_\_\_ *S. Nelson*

**III. REVIEW COMMENTS**

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

<i>[Signature]</i> OFMB	<i>[Signature]</i> Contract Development and Control
11/10/19 <i>[Date]</i>	11/17/19 <i>[Date]</i>

**B. Legal Sufficiency:**

\_\_\_\_\_ *[Signature]*  
Assistant County Attorney

**C. Other Department Review:**

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

Continued from page 1

**Background and Justification:** LMC has gathered permit-required sea turtle nesting data under contract with PBC since 1997. Duties include documenting the location of all turtle crawls daily, analysis of hatchling emergence success, mapping, and shorebird surveys. The scope of work is based on conditions included in the state and federal environmental permits issued for shoreline protection projects in Tequesta/Coral Cove, Jupiter and Juno Beach. In addition to permit-required monitoring, LMC has agreed to provide one year of data necessary to help PBC address permit concerns.

## **CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES**

This Contract is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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 Loggerhead Marineline Center, Inc., a not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. is 59-2445926

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

### **ARTICLE 1 - SERVICES**

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services in the area of sea turtle monitoring in Juno Beach and Jupiter, as more specifically set forth in the Scope of Work detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of this Contract shall be Deborah Drum, telephone no. 561-233-2400.

The CONSULTANT'S representative/liaison during the performance of this Contract shall be Jack Lighton, telephone no. 561-627-8280.

### **ARTICLE 2 - SCHEDULE**

The CONSULTANT shall commence services upon receipt of the COUNTY'S written Notice to Proceed and complete all authorized services by December 31, 2022.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

### **ARTICLE 3 - PAYMENTS TO CONSULTANT**

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials including, if applicable, "out of pocket" expenses (specified in paragraph C below) shall not exceed a total contract amount of One Million Four Hundred Fifty-Six Thousand Seven Hundred Sixty-Four Dollars and Eighteen Cents (\$1,456,764.18). The CONSULTANT shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONSULTANT will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" 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 CONSULTANT 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 will not be reimbursed under the Contract.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the COUNTY. This shall constitute CONSULTANT'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 CONSULTANT.

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

Signature of this Contract by the CONSULTANT 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 CONSULTANT'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 consultants. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

Increases in the CONSULTANT's base labor rate(s) may be allowed on an annual basis starting one (1) year after Contract execution. The increase must be requested in writing by the CONSULTANT prior to the COUNTY'S issuance of a Notice to Proceed for services performed by the CONSULTANT during that calendar year. The increased labor rate shall be adjusted based on the current Consumer Price Index ("CPI"), but in no event shall the increase exceed three (3) percent annually. If the CPI decreases, the labor rate shall be adjusted and the amount paid by COUNTY shall be reduced accordingly. CONSULTANT shall provide documents that show the increases in actual wages or salaries paid to the CONSULTANT's employees that are being utilized to provide the services required under this Contract. At a minimum, the CONSULTANT's documentation shall include an itemized listing of the titles and actual rates of the employees for each labor category and the basis for the proposed base labor rate at the time of submittal of the request. The listing shall be accompanied by a statement attesting to the accuracy of the information signed by an officer of the CONSULTANT. The CONSULTANT shall provide certified payroll registers if requested by the COUNTY. Individual titles and rate documentation shall be used to determine the proposed base labor rates for each labor category included in this Contract. The COUNTY shall not consider a rate increase for categories lacking supporting salary documentation. Upon COUNTY review and approval, the COUNTY shall issue a letter signed by the Department of Environmental Resources Management Director or Deputy Director approving the new rates.

**ARTICLE 5 - TERMINATION**

This Contract may be terminated by the CONSULTANT upon sixty (60) days' prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days written notice to the CONSULTANT or without cause upon ten (10) business days written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the CONSULTANT 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 CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereinunder shall be performed by the CONSULTANT 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 CONSULTANT'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 CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the CONSULTANT'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 CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY'S Tax

Exemption Number in securing such materials.

The CONSULTANT 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. CONSULTANT 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. CONSULTANT 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 CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONSULTANT under the contract.
- B. **Commercial General Liability** CONSULTANT 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. CONSULTANT shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability** CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.
- E. **Professional Liability** CONSULTANT shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT shall maintain a Retroactive Date prior to or equal to the effective

date of this Contract. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an “occurrence” or “claims - made” form. If coverage is provided on a “claims - made” form the Certificate of Insurance must also clearly indicate the “retroactive date” of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, CONSULTANT shall purchase a SERP with a minimum reporting period not less than 3 years. CONSULTANT shall provide this coverage on a primary basis.

**Additional Insured** CONSULTANT 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.” CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.

- F. **Waiver of Subrogation** CONSULTANT hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement to the policy, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which specifically prohibits such an endorsement, or which voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.
- G. **Certificate(s) of Insurance** Prior to execution of this Contract, CONSULTANT 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 33411-2743.”
- H. **Umbrella or Excess Liability** If necessary, CONSULTANT may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer’s Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest “Each Occurrence” limit for either Commercial General Liability, Business Auto Liability, or Employer’s Liability. The COUNTY shall be specifically endorsed as an “Additional Insured” on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a “Follow-Form” basis.
- I. **Right to Review** COUNTY, by and through its Risk Management Department, in

cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

**ARTICLE 11 - INDEMNIFICATION**

CONSULTANT 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 CONSULTANT.

**ARTICLE 12 - SUCCESSORS AND ASSIGNS**

The COUNTY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other.

**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 a court of competent jurisdiction located in Palm Beach County, Florida. 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 CONSULTANT.

**ARTICLE 14 - CONFLICT OF INTEREST**

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The CONSULTANT further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONSULTANT 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 CONSULTANT'S judgement 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 CONSULTANT 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 CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT 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 CONSULTANT under the terms of this Contract.

**ARTICLE 15 - EXCUSABLE DELAYS**

The CONSULTANT 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 CONSULTANT 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 CONSULTANT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'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 CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'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 CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

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

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT 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 CONSULTANT, 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 CONSULTANT 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 CONSULTANT'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 CONSULTANT, 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 COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CONSULTANT warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, 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, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

**ARTICLE 22 - AUTHORITY TO PRACTICE**

The CONSULTANT 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 CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 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 CONSULTANT of the COUNTY'S notification of a contemplated change, the CONSULTANT 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 CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONSULTANT 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 CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT 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 CONSULTANT, notices shall be addressed to:

Jack Lighton, CEO  
Loggerhead Marineline Center  
14200 US Highway One  
Juno Beach, FL 33408

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

The COUNTY and the CONSULTANT 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**

The CONSULTANT, CONSULTANT'S employees, subcontractors of CONSULTANT and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolution R-2003-1274, as amended. The CONSULTANT is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the CONSULTANT acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolution R2003-1274, as amended. COUNTY staff representing the COUNTY department will contact the CONSULTANT(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The CONSULTANT shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the CONSULTANT or its subcontractor(s) terminates an employee who has been issued a badge, the CONSULTANT must notify the COUNTY within two (2) hours. At the time of termination, the CONSULTANT shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend the CONSULTANT if the CONSULTANT 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not contact the COUNTY regarding a terminated CONSULTANT employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

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

The CONSULTANT shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT 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 - SCRUTINIZED COMPANIES (when contract value is greater than \$1 million)**

- A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed

on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

- B. **When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

If the COUNTY determines, using credible information available to the public, that a false certification has been submitted by CONSULTANT, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

### **ARTICLE 31 - PUBLIC RECORDS**

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the CONSULTANT: (i) provides a service; and (ii) acts on behalf of the COUNTY as provided under Section 119.011(2) F.S., the CONSULTANT shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The CONSULTANT 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 CONSULTANT 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 Consultant does not transfer the records to the public agency.
- D. Upon completion of the Contract the CONSULTANT shall transfer, at no cost to the COUNTY, all public records in possession of the CONSULTANT unless notified by COUNTY's representative/liason, 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 CONSULTANT transfers all public records

to the COUNTY upon completion of the Contract, the CONSULTANT shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically by the CONSULTANT 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 COUNTY.

Failure of the CONSULTANT 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. CONSULTANT 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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 E-MAIL AT [RECORDSREQUEST@PBCGOV.ORG](mailto:RECORDSREQUEST@PBCGOV.ORG) OR BY TELEPHONE AT 561-355-6680.**

Attachments:

Exhibit A: Scope of Work

Exhibit B: Schedule of Payments

*Remainder of page intentionally left blank.*

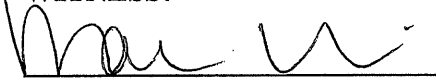
IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

**ATTEST:**  
**SHARON R. BOCK**  
**CLERK AND COMPTROLLER**

**PALM BEACH COUNTY**  
**BOARD OF COUNTY COMMISSIONERS:**

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

By: \_\_\_\_\_  
Mack Bernard, Mayor

**WITNESS:**  
  
Signature

**CONSULTANT:**  
Loggerhead Marinelife Center  
Company Name

Maureen Verity  
Name (type or print)

  
Signature

\_\_\_\_\_  
Signature

Caitlin Farmer  
Typed Name

\_\_\_\_\_  
Name (type or print)

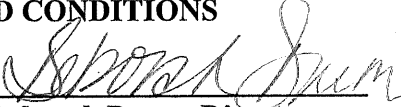
CFO  
Title

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

(corporate seal)  
[OR]  
(not-for-profit corporate seal)

By   
Assistant County Attorney

**APPROVED AS TO TERMS  
AND CONDITIONS**

By   
Deborah Drum, Director  
Department of Environmental Resources Management

**EXHIBIT A  
SCOPE OF WORK**

**PALM BEACH COUNTY SEA TURTLE MONITORING – NORTH COUNTY**

Loggerhead Marineline Center, Inc. (hereafter referred to as the CONSULTANT) shall monitor sea turtle nesting as required by state and federal shoreline protection permits according to COUNTY established criteria, as set forth in this Scope of Work. The survey area shall be divided as follows and may be authorized through separate Notices to Proceed as necessary to ensure permit compliance:

- A. Jupiter/Carlin – Extending from the Jupiter Inlet to the south property boundary of the Jupiter Reef Club (1.56 miles).
  - A.1. Jupiter/Juno Beach – Extending from the Jupiter Inlet to the north boundary of John D. MacArthur Beach State Park (7.55 miles)
  - A.2. Jupiter/Juno Beach south of R-19 – Extending from R-19 (JC7) to the north boundary of John D. MacArthur Beach State Park (6.50 miles)
- B. Tequesta/Coral Cove Park – Extending from the Palm Beach County line to the southern limit of 350 Beach Rd (R-8) (1.13 miles).

The CONSULTANT shall obtain all Florida Fish and Wildlife Conservation Commission (FWC) Marine Turtle Permits (Marine Turtle Permit) required for sea turtle monitoring and maintain these permits in good standing at all times. All reports required by the Marine Turtle Permit shall be timely submitted to FWC by the CONSULTANT. The CONSULTANT shall utilize trained and experienced staff to conduct all monitoring activities. The CONSULTANT shall provide a list of staff members listed on the Marine Turtle Permit, along with their relevant assignments, responsibilities, and qualifications to the COUNTY prior to the first invoice of each year and upon any change in staff throughout the season. The COUNTY may, at its discretion and without advanced notice, conduct independent surveys and observe data collection and analysis techniques for the purpose of comparing and validating compliance with FWC standards and this Contract. Discrepancies of more than 10% of evaluations on a given day shall be provided in writing to the CONSULTANT for corrective measures, and the CONSULTANT shall provide a written response within seven (7) days. Repeated proven and unjustifiable discrepancies may result in contract termination.

The CONSULTANT shall ensure that all new monitoring staff are adequately trained and have observed a minimum of fifty crawls with an experienced staff member prior to surveying independently. If requested by the COUNTY, the CONSULTANT (including all monitoring staff) shall be required to attend an early season consistency meeting with COUNTY staff. Additional

clarification of methods specifically outlined by the COUNTY or with COUNTY web systems shall be provided as necessary.

The CONSULTANT shall also be required to provide services to enable the COUNTY to meet permit conditions for operating the Juno Beach Pier. The services include but are not limited to cleaning discarded fishing gear and debris from pier pilings and surrounding area as well as providing services for rescue and rehabilitation of turtles caught by pier patrons.

The following tasks shall be performed only when authorized by the issuance of a Notice to Proceed by the COUNTY to the CONSULTANT for a particular segment of beach:

Task 1: Daily Nesting Surveys and Beach Monitoring

Daily surveys for sea turtle monitoring activity shall begin for all survey areas on March 1. Nesting surveys shall begin no earlier than ½ hour prior to sunrise and no later than ½ hour after sunrise. When possible, nesting surveys shall be completed by 9:00 AM each day to allow for maximum crawl visibility. During early (March 1-April 30) and late (October 1 – November 30) season only, the survey start time may be delayed only upon prior written approval by the Director of ERM or designee. Locations of all crawls shall be collected with the use of a real-time corrected, differential GPS unit with sub-meter accuracy. Alternately, upon approval from the Director of ERM or designee, locations of non-nesting emergences and unmarked nests may be collected with a WAAS enabled handheld GPS unit. All survey and nesting data shall be recorded on a daily survey datasheet and in the COUNTY database. GPS data shall be uploaded to the database within one day of data collection and examined for accuracy of content and position. In any instance where real time sub-meter accuracy is not attained, data shall be post-processed to obtain sub-meter accuracy using a base station approved by the COUNTY.

The following parameters shall be recorded for each crawl encountered on a daily survey form approved by the Director of ERM or designee:

- A. Date
- B. Start and end time of the survey
- C. Staff member(s) conducting survey
- D. Weather conditions during survey (If there is staff discrepancy in weather conditions, a local weather and surf condition website shall be used)
- E. General beach observation (any changes in beach conditions, including extreme (i.e. Spring or Neap) tides, scarping, erosion, or accretion)
- F. Survey zone
- G. Species of turtle
- H. Crawl type
- I. Estimated distance from the egg chamber or landward extent of the non-nesting emergence to the most recent high water line
- J. Estimated distance from the egg chamber or landward extent of the non-nesting emergence to the vegetated toe of dune
- K. Number of abandoned body pits



- L. Number of abandoned egg chambers
- M. Any interaction with an escarpment regardless of height; scarps are defined as a steep change in beach elevation (those exceeding a slope of 60 degrees) and can be classified as those on the open beach (Beach Scarp) or those at the toe of the dune (Dune Scarp)
- N. Any obstructions (natural or man-made) encountered by the turtle and the turtle's response to that obstruction. Interactions with beach furniture, boats, or recreational equipment shall be recorded on a FWC Obstructed Nesting Attempt form and submitted to FWC per their guidelines and to the COUNTY with monthly data submittal.
- O. Fill type shall be indicated on daily survey datasheet and indicated with the GPS data.

If authorized by the Marine Turtle Permit, nests may be relocated for conservation purposes. Relocation shall be conducted in accordance with FWC and COUNTY guidelines. All relocations shall be completed prior to 9:00 am. All relocated nests shall be marked for evaluation, regardless of species or marking rotation. Relocated nests shall be identified by the addition of "R" after the marked nest number (example: CC-060314-4BR-JC).

Zone boundary markers shall be established by the CONSULTANT in the dune at historical locations within the entire survey area, and maintained throughout the nesting season. Zone boundary markers shall be of sufficient height and color to be clearly visible from the beach and the zone number shall be clearly displayed.

Frequency: Daily from March 1 through October 31.

Data Reporting: All sea turtle crawl data shall be entered into the COUNTY web-based data management system (database) within 24 hours of collection. In the event the COUNTY database fails to function as designed, the CONSULTANT and the COUNTY shall determine mutually agreeable alternatives for data management and reporting.

Copies of original survey sheets, nest checks, and fate sheets shall be provided to the COUNTY with each monthly deliverable or more frequently if requested. A monthly summary of daily surveys shall be submitted as described in Task 6 (Program Management) to confirm survey extents and times and summarize any unusual activity on the beach. All original or post-processed DGPS crawl data files (.COR and .SHP) shall be submitted with the appropriate monthly data submittal. Any crawl location that cannot be corrected through real-time or post-processing shall be reported to the COUNTY with the appropriate monthly data submittal.

#### Task 2: Shorebird Surveys

A daily survey for shorebird activity shall be conducted for all zones during active construction and a weekly survey shall be conducted upon construction completion until September 1. One or more shorebird survey routes shall be established by the COUNTY to cover project areas which require shorebird surveys. These routes must be approved by the FWC Regional Biologist as part of the Environmental Protection Plan approval process. Routes shall not be modified without prior FWC approval. Bird survey protocols, including downloadable field data sheets, are available on

the Florida Shorebird Database (FSD) website. All breeding activity shall be reported to the FSD website within one week of data collection. If the use of this website is not feasible for data collection, the FWC Regional Biologist must be contacted for alternative methods of reporting. The Permittee shall ensure that the Bird Monitors use the following survey protocols:

- a. Surveys shall be conducted by walking the length of all survey routes and visually surveying for the presence of shorebirds exhibiting breeding behavior, shorebird chicks or shorebird juveniles, as outlined in the FSD Breeding Bird Protocol for Shorebirds and Seabirds. Use of binoculars (minimum 8x40) is required, and use of spotting scope may be necessary to accurately survey the area. If an ATV or other vehicle is needed to cover large survey routes, the Bird Monitor shall stop at intervals of no greater than 600 feet to visually inspect for breeding activity.
- b. Once breeding or nesting behavior is confirmed by the presence of a scrape, eggs or young, the Permittee (or their designee) shall notify the FWC Regional Biologist within 24 hours.

Bird Monitor Requirements - Nesting shorebird surveys should be conducted by trained, dedicated individuals (Bird Monitor) with proven shorebird identification skills and avian survey experience. Bird Monitors shall review and become familiar with the general information, employ the data collection protocol, and implement data entry procedures outlined on the FWC's FSD website (<http://www.flshorebirddatabase.org> or Florida Shorebird Database). They shall use the data-collection protocol and implement data entry procedures as outlined in that website. A list of Bird Monitors, with their contact information and a summary of qualifications, including bird identification skills and avian survey experience, shall be submitted to the FWC Regional Biologist for approval. The Permittee shall submit the names and contact information of the Bird Monitors who have been approved by FWC to [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us), prior to any construction or shorebird surveys. Bird Monitors shall meet the following minimum qualifications:

- i. Has previously participated in beach-nesting bird surveys in Florida (provide references or resume). Experience with previous projects must document the ability to 1) identify all species of beach-nesting birds by sight and sound, 2) identify breeding/territorial behaviors, and find nests of shorebirds that occur in the project area, and 3) identify habitats preferred by shorebirds nesting in the project area.
- ii. Have a clear working knowledge of, and adhere to, the Breeding Bird Protocol for Florida's Seabirds and Shorebirds.
- iii. Have completed full-length webinars: Route-Surveyor Training and Rooftop Monitoring Training, including the annual refresher training. Training resources can be found on the Florida Shorebird Database (FSD) website.
- iv. Familiar with FWC beach driving guidelines.

v. Experience posting beach-nesting bird sites, consistent with Florida Shorebird Alliance (FSA) Guidelines.

vi. Has registered as a contributor to the FSD.

The Bird Monitor shall conduct a shorebird education and identification program (and/or provide educational materials) with the on-site staff to ensure protection of precocial (mobile) chicks. All personnel are responsible for watching for shorebirds, nests, eggs and chicks. If the Bird Monitor finds that shorebirds are breeding within the project area, a bulletin board shall be placed and maintained in the construction staging area with the location map of the construction site showing the bird breeding areas and a warning, clearly visible, stating that "NESTING BIRDS ARE PROTECTED BY LAW INCLUDING THE FLORIDA ENDANGERED AND THREATENED SPECIES ACT AND THE STATE and FEDERAL MIGRATORY BIRD ACTS".

If nesting activities are observed, the CONSULTANT shall notify the COUNTY within 12 hours. The COUNTY, in consultation with FWC, will then decide if protective action will be taken.

Credentials of all staff conducting shorebird surveys shall be submitted to and approved by the COUNTY and the FWC Regional Biologist prior to February 1. If existing staff members do not meet this qualification, CONSULTANT shall procure at its own expense the services of individuals qualified to perform such shorebird surveys. The COUNTY may, at its discretion and without advanced notice, observe shorebird surveys to verify the experience of the surveyors and accuracy of shorebird surveys.

Frequency: Daily during active construction and weekly from February 15 to August 30.

Data Reporting: All data shall be entered into the Florida Shorebird Database within one week. If nesting activity is documented, CONSULTANT shall notify the COUNTY within 12 hours. CONSULTANT shall provide written documentation of on-site training of construction staff with monthly data submittal.

### Task 3: Escarpment Mapping

Visual surveys for escarpment formation shall be conducted for the entire survey area. Any escarpments steeper than 60° that exceed 18 inches in height for a distance of 100 feet or greater and persist for one week or more shall be mapped as a line feature with DGPS. Escarpments shall be mapped by driving an ATV at slow speeds while recording a line feature with DGPS. The average height of any escarpments meeting the above criteria shall be estimated and the maximum height measured.

Frequency: Weekly from February 15 to October 15.

Data Reporting: CONSULTANT shall notify the COUNTY within 24 hours if a scarp exceeding 18 inches in height and 100 feet in length is noted for two consecutive weeks. A cumulative summary of all surveys, including date and time, environmental conditions (winds, tide, and sea state), zone, average height, and maximum height and length of the escarpments (as a Microsoft Excel file), as well as GIS line features of escarpments (as ArcMap shapefiles in NAD83, Florida East) and the original GPS data files shall be included with each monthly data submittal.

#### Task 4: High Water Line and Toe of Dune Mapping

Each month (during typical, non-storm conditions), the most recent high water line shall be mapped with DGPS for the entire survey area. All efforts shall be made to record the high water line at approximately the same time of each month. In July (during typical, non-storm conditions), the toe of the dune or seaward vegetation line shall be mapped once with DGPS for the entire survey area.

Frequency: Monthly from March 1 to September 30 (for high water line) and once between July 1 and July 31 (for toe of dune).

Data Reporting: GIS line features of the high water line and toe of dune (as ArcMap shapefiles in NAD83, Florida East) and the original DGPS data files shall be included with the appropriate monthly data submittal.

#### Task 5: Nest Evaluations and Monitoring

In order to evaluate the effects of beach nourishment on sea turtle reproductive success, selected nests shall be located, marked, tracked throughout the incubation period, and nest contents evaluated, if applicable. Nests shall be marked approximately 2 feet west of the egg chamber using a 3 foot (or larger) wooden stake. An additional wooden stake shall be placed at the toe of the dune in the dune vegetation. Precise measurements (distance and bearing) shall be made to the dune stake and recorded on the datasheet. If nest poaching occurs, an alternate staking method, proposed by the CONSULTANT and approved by the COUNTY, may be implemented in high-risk poaching areas upon FWC recommendation.

The clutch for each marked nest shall be located by digging a maximum of 10 narrow holes. If a loggerhead nest is selected to be marked, the egg chamber shall be located. If the loggerhead egg chamber cannot be located after digging 10 narrow holes, the next loggerhead nest in rotation shall be marked for evaluation. If a leatherback or green turtle clutch is not found, the approximate location shall be marked and monitored throughout the incubation period.

The nest marking rotation for each species within each beach segment (defined above) shall be proposed by the CONSULTANT and approved by the COUNTY prior to the start of each sea turtle nesting season. The goal shall be to randomly mark a sufficient number of nests in order to evaluate a statistically meaningful number of nests in each treatment type (approximately 125 per treatment). The nest marking protocol shall take into account variable nesting densities and

potential losses due to erosion or depredation in each treatment type to ensure similar sample sizes for each treatment. Historic and predicted trends shall be used to formulate the protocol. A running count shall be maintained and the beach shall be surveyed in the same direction each day to ensure randomization. By June 15 of each nesting season, current data shall be compared to predictions and, as necessary, adjustments made to the marking protocol to ensure a sufficient number of evaluated nests.

When sufficient numbers of nests are available, the following minimum numbers of nests shall be marked in each treatment for each species, up to two treatments. Each additional treatment shall be given a notice to proceed under optional task G:

- A. Jupiter/Carlin
  - Loggerhead – 150
  - Green – 150
  - Leatherback – 100
- A.1 Jupiter/Juno Beach
  - Loggerhead – 300
  - Green – 300
  - Leatherback – 150
- A.2 Jupiter/Juno Beach
  - Loggerhead – 300
  - Green – 300
  - Leatherback – 150
- B. Tequesta/Coral Cove Park
  - a. Loggerhead – 150
  - b. Green – 150
  - c. Leatherback – 100

Protected Nest Designation: In addition to the nest marking schedule, any nest, regardless of species or marking rotation, laid in a vehicle access, pedestrian walkway, or within 10 feet of a lifeguard tower or fishing pier, shall be marked for protection purposes. To identify these nests as protected (unless they would have been marked as part of the marking rotation), they shall be assigned a nest ID as described in Task 1, with the addition of “P” after the marked nest number (example: CC-060314-4BP-JC) and the nest shall be flagged off with a 10’ perimeter. These nests shall be checked daily for the parameters mentioned below, but shall not be evaluated for reproductive success. All stakes shall be removed either 72 hours post-emergence or after 70 days post-deposition, whichever occurs first. All protected nests shall be assigned a nest fate of “Protected.” If a nest was to be marked as part of the marking rotation, yet still requires additional protection, a normal nest ID is assigned but the nest shall be flagged with a 10’ perimeter.

Nest inspections shall be conducted daily for all marked and protected nests. Nest inspection sheets are generated from the web system and shall be printed each morning. Nest inspections shall be conducted independently of crawl surveys. Each nest on the check sheet shall be visually inspected

by walking or driving an ATV near the nest stake and stopping to check for the parameters listed below.

Every marked nest shall be checked daily for:

- A. Presence of nest stakes – if the nest stake is missing, the stake shall be reset, that day, using GPS coordinates or the distance and bearing information recorded in the database unless continued stake loss due to ongoing, extreme tidal events is likely. DGPS units shall be maintained with a list of current coordinates for all marked nests to facilitate stake replacement.
- B. Evidence of overwash – overwash events shall be categorized as to severity using the following criteria:
  - a. 1 = overwash over the egg chamber but less than 1 meter west of the egg chamber
  - b. 2 = overwash extent greater than 1 meter west of the egg chamber
- C. Evidence of predation – all depredation events, by a mammalian predator or nesting turtle, that involve loss of eggs (not just loss of hatchlings) shall be recorded using the following parameters:
  - a. Predator species
  - b. Number of eggs lost
  - c. Time of depredation
    - i. Pre-hatchling emergence
    - ii. Post-hatchling emergence

All predated nests shall be assigned a fate of “Predated” on the first instance of egg loss, even if viable eggs remain intact; these nests shall not be evaluated. Depredation events by non-mammalian predators, such as crabs, birds, or ants, shall be recorded only in the comments section; these nests shall be evaluated 72 hours after hatchling emergence. If hatchlings are depredated after leaving the chamber, but before entering the water, the number of depredated hatchlings and the predator, shall be recorded in the comments section; these nests shall be evaluated.

- D. Evidence of hatchling emergence – each marked nest, older than 45 days post-deposition, shall be checked daily for hatchling emergence (when nests reach 45 days post-deposition, the nest code becomes green on the nest inspection sheet). A “yes” or “no” shall be entered into the emergence column on the daily nest check sheet for every green nest. If emergence is noted, the estimated number of emerged hatchlings shall be recorded.
- E. Evidence of disorientation – all hatchling emergences (not just those from marked nests) shall be evaluated for disorientation. A disorientation report shall be completed for any amount of disoriented hatchlings. All disorientation events shall be recorded on the FWC Marine Turtle Disorientation Incident Report form and faxed or emailed to the COUNTY and FWC within 24 hours of observation.

Each marked nest shall be evaluated for reproductive success no earlier than 72 hours post-emergence or 70 days post-deposition (80 days for leatherbacks), whichever is earlier. A separate nest evaluation or fate sheet shall be taken into the field and each category is to be counted and

written down as it is documented. Live hatchlings are to be handled and/or released according to FWC marine turtle guidelines that indicate the number of hatchlings that may be released and the time of day at which they may be released.

For each marked nest, the following parameters shall be recorded:

- A. Number of hatched eggs
- B. Number of unhatched eggs
- C. Number of pipped live eggs
- D. Number of pipped dead eggs
- E. Number of live hatchlings
- F. Number of dead hatchlings
- G. Number of spacer eggs
- H. Depth to the top of the chamber (inches)
- I. Depth to the bottom of the chamber (inches)

Each marked nest shall be assigned a fate according to the following codes:

- A. Hatched (H) – hatched, eggs found
- B. Hatched (HNO) – hatched, emergence not observed, eggs found
- C. Predated (PD) – predated, any number of eggs lost
- D. Protected (PR) – marked solely for protection or project purposes
- E. Poached (PV) – poached, any number of eggs lost
- F. Washout (WO) – eroded prior to anticipated or actual emergence, any number of eggs lost
- G. Lost (L) – not evaluated due to erosion after anticipated or actual emergence or proximity to a viable nest, all marking stakes removed and GPS coordinates unavailable, etc
- H. Could Not Locate (CNL) – eggs unable to be located
- I. Scavenged (SCV) – predated after hatchling emergence, any number of eggs lost
- J. Turtle Scattered (TS) – eggs scattered by nesting female, any number of eggs lost

If a nest fate of “Lost” is assigned, an explanation of the circumstances shall be entered into the comments section (example: nest eroded on 9/21 from Hurricane Xavier at 74 days post-deposition). If hatchling emergence is not observed after 70 days (80 days for leatherbacks), the nest site shall be excavated to locate the clutch. A nest fate of “Could Not Locate” shall only be used after a 4’x4’x4’ area has been excavated. Regardless of circumstances surrounding the nest (not-found clutch, relocated stake, etc.) all efforts shall be made to locate nest contents. Nest stakes are not to be pulled without an attempt to locate the clutch unless the nest has been washed out or predated. All relocated nests shall be marked and evaluated, regardless of species or marking rotation.

Frequency: Daily until the last marked nest is evaluated.

Data Reporting: Each nest inspection event and hatch success record, including the above mentioned parameters, shall be entered into the COUNTY database within one business day of collection.

#### Task 6: Program Management, Quality Assurance/Quality Control, and Reporting

All data reporting forms shall be checked for accuracy and clarity by a CONSULTANT supervisor or senior staff member and any discrepancies or omissions resolved within three business days of data collection. Data shall be entered into the COUNTY database and each entry verified for accuracy by at least two additional people within four (4) weeks of data collection. Persons performing data entry and all verification checks shall initial and date each raw datasheet. Alternative methods for data verification and quality assurance may be implemented by the CONSULTANT if approved in advance by the COUNTY.

A summary of all problems encountered associated with any task and problem resolution shall be included with each monthly data submittal. For reporting purposes, the COUNTY will be copied on or sent copies of reports submitted under Marine Turtle Permit requirements including but not limited to INBS/SNBS reports, reproductive reports, and annual summaries.

#### Task 7: Underwater Pier Cleaning

The CONSULTANT shall conduct quarterly underwater cleaning to remove discarded fishing gear and debris from pilings and ocean bottom within 100 feet of the Juno Pier in accordance with the Florida Department of Environmental Protection Permit # 50237596 and the 2010 Lease Agreement with Palm Beach County Parks and Recreation Department.

Frequency: Quarterly events.

Data Reporting: Annual report summarizing dates of underwater cleanup including weight and type of debris removed.

#### Task 8: Rescue and Rehabilitation of Stranded Turtles associated with Pier

The CONSULTANT shall provide services to respond, rescue, and rehabilitate sea turtles that are injured, stranded or captured as a result of the Juno Beach Pier or its patrons in order to comply with the Florida Department of Environmental Protection Permit #50237596 and the Lease Agreement with Palm Beach County Parks and Recreation Department. In the event that the CONSULTANT is unable to provide space for an injured turtle, the CONSULTANT shall coordinate with FWC to provide an approved rehabilitation facility. The CONSULTANT shall ensure a timely response to turtles caught by pier patrons and to collect information from turtle incidents including when turtles are hooked or entangled but not captured.

Frequency: As needed.

Data Reporting: Annual report summarizing dates, species, size, and actions taken in association with all hook and line strandings from the pier.

#### Deliverables and Invoices



All deliverable reports or data submittal and invoices shall be submitted by no later than the fifteenth (15<sup>th</sup>) of each month following the month of data collection unless a date certain is provided for herein in order for CONSULTANT to receive payment from the COUNTY. All invoices shall be confirmed as received by ERM and any changes to the invoices should be communicated within 5 business days of the receipt of the invoice.

**OPTIONAL TASKS: Special Project and Construction Related Monitoring**

In addition to the standard sea turtle monitoring work described above, the COUNTY may authorize the CONSULTANT to provide the following special project monitoring according to the cost schedule in Exhibit B. Each optional task shall be authorized by a separate written Notice to Proceed. CONSULTANT shall not commence work on any Optional Task cited below until the COUNTY specifically authorizes such task in writing.

**Optional Task A: Pre-construction Meeting**

If shoreline protection activities conducted by the COUNTY will occur during the period covered by this CONTRACT, the CONSULTANT shall attend the pre-construction meeting with the contractor and project sponsor.

Frequency: Once prior to project initiation.

Data Reporting: A copy of the pre-construction attendance sheet shall be provided to the COUNTY with the appropriate monthly data submittal.

**Optional Task B: Late Season Nesting Surveys**

If shoreline protection activities conducted by the COUNTY will occur within November, daily nesting surveys, and beach monitoring performed in accordance with Task 1 shall continue after October 31 if nesting activity has occurred in north Palm Beach County within the last 14 days. Nests observed during this period that will be directly affected by construction activities will be relocated in accordance with Option Task G.

Frequency: Daily November 1 through November 30 or when there have been no nests in north Palm Beach County for at least 14 days (whichever is earlier)

Data Reporting: Data reporting shall occur in accordance with Tasks 1 and 5.

**Optional Task C: Early Season Night Monitoring**

If shoreline protection activities conducted by the COUNTY are authorized by a DEP permit during the period from March 1 to April 30, nightly surveys for nesting activity shall occur and continue through project completion. Nesting surveys shall be conducted hourly from 9:00 PM to sunrise, as described in environmental permits. The final survey shall begin no earlier than a ½ hour prior to sunrise and the construction contractor shall be notified upon completion of this survey. Nests deposited in areas that will be directly affected by shoreline protection activities shall be relocated in accordance with Optional Task G. The CONSULTANT shall be responsible for coordination with the construction contractor.

Frequency: Daily from March 1 or date of first nest laid on an adjacent beach (whichever is earlier) through project completion.

Data Reporting: Observer, start and end time of each hourly survey, and number and type of turtle crawls encountered (by zone) shall be recorded on a datasheet approved by the COUNTY. Any crawls will be reported to the COUNTY the next day by email. All night survey information shall be summarized in an Excel spreadsheet and submitted with the appropriate monthly data submittal. Data reporting for relocated nests shall occur in accordance with Tasks 1 and 5.

#### Optional Task D: Mark and Avoid Activities

If shoreline protection activities conducted by the COUNTY will occur during the period from March 1 to April 30 or in November, nests deposited in work areas where construction has ceased or will not occur for 65 days, shall be marked and left in situ as described in environmental permits. All nests shall be surveyed, monitored and marked as described in Task 1, with the addition of at least a 10' stake and ribbon perimeter, and evaluated and monitored as described in Task 5; The CONSULTANT shall be responsible for coordination with the construction contractor.

Frequency: As needed.

Data Reporting: Data reporting shall occur in accordance with Tasks 1 and 5.

#### Optional Task E: Additional HWL/Toe of Dune Mapping

The COUNTY will authorize additional HWL/Toe of Dune Mapping event(s) to be conducted in accordance with Task 4 after significant weather events that modify the beach topography.

Frequency: Each additional mapping event shall be authorized as a separate item following substantial modification of the beach due to weather.

Data Reporting: Data reporting shall be in accordance with Task 4.

#### Optional Task F: Nest Relocation

Nest relocation for construction purposes shall occur under the following circumstances:

a) If shoreline protection activities conducted by the COUNTY will occur during the period from March 1 to April 30, nests deposited in areas that will be directly affected by shoreline protection activities shall be relocated to a nearby area that will not be affected by shoreline protection activities, regardless of species or marking rotation.

b) Late season nests deposited 65 days prior to an expected construction start date in areas that will be directly affected by shoreline protection activities shall be relocated.

c) Any nest laid in an active construction area during activities described in Optional Tasks B and C shall be relocated.

All relocated nests shall be marked as described in Task 1, checked daily and evaluated for reproductive success as described in Task 5, regardless of species or marking rotation. The CONSULTANT shall be responsible for coordination with the construction contractor. The CONSULTANT shall be responsible for obtaining the appropriate permit modification from the Florida Fish and Wildlife Conservation Commission to relocate nests for construction purposes.

Frequency: As needed.

Data Reporting: Data reporting shall occur in accordance with Tasks 1 and 5.

**CONTRACT  
FOR SEA TURTLE MONITORING SERVICES**

**EXHIBIT B**

**SCHEDULE OF PAYMENTS**

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

\*\*\*Annual CPI rate may be added at the end of each year within the contract at the request of the CONSULTANT. The CPI shall be that reported by the US Bureau of Labor Statistics with a maximum of 3% and shall be applied to the upcoming contract year. See Article 4 of the Contract for terms and conditions.

**Survey Area A**

Jupiter/Carlin – Jupiter Inlet to the south property boundary of the Jupiter Reef Club (1.56 miles).

**Task 1- Daily Nesting Surveys**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (March-Oct): \$6,022.55

**Task 2- Weekly Shorebird Surveys**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*

Monthly Compensation (February 15 - August 30): \$447.30

\*February 15 – March 30 to be included in March deliverables billed at 1.5 months.

**Task 3- Weekly Escarpment Monitoring**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (February 15 – October 15): \$279.84

\*February 15 – March 30 to be included in March invoice billed at 1.5 months. October to be billed at ½ monthly rate.

**Task 4- Monthly High Water Line and Dune Mapping**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-Sept): \$97.78

**Task 5- Daily Nest Evaluation**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (May-November): \$1,561.06

**Task 6- Program Management**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-November): \$1,979.42

**OPTIONAL TASK A; SURVEY SEGMENT A: Pre-construction Meeting**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task A: \$265.23/mtg  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK B; SURVEY SEGMENT A: Late Season Nesting Surveys**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task B: \$160.71/day  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK C; SURVEY SEGMENT A: Early Season Night Monitoring**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task C: \$538.17/night  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK D; SURVEY SEGMENT A: Mark and Avoid Activities**

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

**OPTIONAL TASK E; SURVEY SEGMENT A: Additional HWL/Toe of Dune Mapping**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task E: \$97.98/event  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK F; SURVEY SEGMENT A: Nest Relocation**

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

Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task F: \$119.13/nest  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK G; SURVEY SEGMENT A: Additional Nest Marking**

Task(s) to be Completed: As set forth in **Exhibit A**. Additional marking of nests as set forth in Task 5 in the event that multiple projects are completed in a single year.

Due Date: no later than the due date of the appropriate monthly data submittal. May-November.  
Compensation for Optional Task G: \$780.53/month  
Not to exceed amount to be determined by Notice to Proceed

**Survey Area A.1**

Jupiter/Juno Beach – Jupiter Inlet to the north boundary of John D. MacArthur Beach State Park (7.55 miles)

**Task 1- Daily Nesting Surveys**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-Oct): \$18,365.49

**Task 2- Weekly Shorebird Surveys**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*  
Monthly Compensation (February 15-August 30): \$1,044.08  
\*February 15 – March 30 to be included in March invoice billed at 1.5 months.

**Task 3- Weekly Escarpment Monitoring**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*  
Monthly Compensation (February 15 – October 15): \$699.05  
\*February 15 – March 30 to be included in March invoice billed at 1.5 months. October to be billed at ½ monthly rate.

**Task 4- Monthly High Water Line and Dune Mapping**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-Sept): \$293.33

**Task 5- Daily Nest Evaluation**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (May-November): \$3,122.12

**Task 6- Program Management**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-November): \$9,599.28

**Task 7- Quarterly Underwater Pier Cleaning**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Compensation: No charge

**Task 8- Rescue and Rehabilitation of Stranded Turtles associated with Pier**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Compensation: No charge

**OPTIONAL TASK A; SURVEY SEGMENT A.1: Pre-construction Meeting**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task A: \$265.23/mtg  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK B; SURVEY SEGMENT A.1: Late Season Nesting Surveys**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task B: \$490.01/day  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK C; SURVEY SEGMENT A.1: Early Season Night Monitoring**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task C: \$538.17/night  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK D; SURVEY SEGMENT A.1: Mark and Avoid Activities**

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

**OPTIONAL TASK E; SURVEY SEGMENT A.1: Additional Toe of Dune Mapping**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task E: \$293.33/event  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK F; SURVEY SEGMENT A.1: Nest Relocation**

Task(s) to be Completed: As set forth in **Exhibit A**  
Due Date: no later than the due date of the appropriate monthly data submittal  
Compensation for Optional Task F: \$119.13/nest  
Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK G; SURVEY SEGMENT A.1: Additional Nest Marking**

Task(s) to be Completed: As set forth in **Exhibit A**. Additional marking of nests as set forth in Task 5 in the event that multiple projects are completed in a single year.  
Due Date: no later than the due date of the appropriate monthly data submittal. May-November.  
Compensation for Optional Task G: \$1,561.06/month  
Not to exceed amount to be determined by Notice to Proceed

**Survey Area A.2**

Jupiter/Juno Beach – Jupiter/Juno Beach south of R-19 – Extending from R-19 (JC7) to the north boundary of John D. MacArthur Beach State Park (6.50 miles)

**Task 1- Daily Nesting Surveys**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-Oct): \$15,794.32

**Task 2- Weekly Shorebird Surveys**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*  
Monthly Compensation (February 15-August 30): \$897.91  
\*February 15 – March 30 to be included in March invoice billed at 1.5 months.

**Task 3- Weekly Escarpment Monitoring**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*  
Monthly Compensation (February 15 – October 15): \$601.18  
\*February 15 – March 30 to be included in March invoice billed at 1.5 months. October to be billed at ½ monthly rate.

**Task 4- Monthly High Water Line and Dune Mapping**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion  
Monthly Compensation (March-Sept): \$252.26

**Task 5- Daily Nest Evaluation**

Tasks to be completed: As set forth in **Exhibit A**  
Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion



Monthly Compensation (May-November): \$3,122.12

**Task 6- Program Management**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (March-November): \$8,255.38

**Task 7- Quarterly Underwater Pier Cleaning**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Compensation: No charge

**Task 8- Rescue and Rehabilitation of Stranded Turtles associated with Pier**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Compensation: No charge

**OPTIONAL TASK A; SURVEY SEGMENT A.2: Pre-construction Meeting**

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

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

Compensation for Optional Task A: \$265.23/mtg

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK B; SURVEY SEGMENT A.2: Late Season Nesting Surveys**

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

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

Compensation for Optional Task B: \$421.41/day

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK C; SURVEY SEGMENT A.2: Early Season Night Monitoring**

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

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

Compensation for Optional Task C: \$538.17/night

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK D; SURVEY SEGMENT A.2: Mark and Avoid Activities**

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

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

No additional compensation for Optional Task D:

**OPTIONAL TASK E; SURVEY SEGMENT A.2: Additional Toe of Dune Mapping**

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

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

Compensation for Optional Task E: \$252.26/event

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK F; SURVEY SEGMENT A.2: Nest Relocation**

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

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

Compensation for Optional Task F: \$119.13/nest

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK G; SURVEY SEGMENT A.2: Additional Nest Marking**

Task(s) to be Completed: As set forth in **Exhibit A**. Additional marking of nests as set forth in Task 5 in the event that multiple projects are completed in a single year.

Due Date: no later than the due date of the appropriate monthly data submittal. May-November.

Compensation for Optional Task G: \$1,561.06/month

Not to exceed amount to be determined by Notice to Proceed

**Survey Area B**

Tequesta/Coral Cove Park – Extending from the Palm Beach County line to the southern limit of 350 Beach Rd (R-8) (1.13 miles).

**Task 1- Daily Nesting Surveys**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (March-Oct): \$4,185.02

**Task 2- Weekly Shorebird Surveys**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*

Monthly Compensation (April-August): \$311.31

\*February 15 – March 30 to be included in March invoice billed at 1.5 months.

**Task 3- Weekly Escarpment Monitoring**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion\*

Monthly Compensation (March-Sept): \$194.43

\*February 15 – March 30 to be included in March invoice billed at 1.5 months. October to be billed at ½ monthly rate.

**Task 4- Monthly High Water Line and Dune Mapping**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (March-Sept): \$67.43

**Task 5- Daily Nest Evaluation**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (May-November): \$1,561.06

**Task 6- Program Management**

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

Deliverable Due Date: no later than the 15<sup>th</sup> day the month after completion

Monthly Compensation (March-November): \$1,375.34

**OPTIONAL TASK A; SURVEY SEGMENT B: Pre-construction Meeting**

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

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

Compensation for Optional Task A: \$265.23/mtg

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK B; SURVEY SEGMENT B: Late Season Nesting Surveys**

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

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

Compensation for Optional Task B: \$111.26/day

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK C; SURVEY SEGMENT B: Early Season Night Monitoring**

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

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

Compensation for Optional Task C: \$ 538.17/night

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK D; SURVEY SEGMENT B: Mark and Avoid Activities**

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

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

No additional compensation for Optional Task D:

**OPTIONAL TASK E; SURVEY SEGMENT B: Additional Toe of Dune Mapping**

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

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

Compensation for Optional Task E: \$67.43/event

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK F; SURVEY SEGMENT B: Nest Relocation**

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

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

Compensation for Optional Task F: \$119.13/nest

Not to exceed amount to be determined by Notice to Proceed

**OPTIONAL TASK G; SURVEY SEGMENT B: Additional Nest Marking**

Task(s) to be Completed: As set forth in **Exhibit A**. Additional marking of nests as set forth in Task 5 in the event that multiple projects are completed in a single year.

Due Date: no later than the due date of the appropriate monthly data submittal. May-November.

Compensation for Optional Task G: \$707.32/month

Not to exceed amount to be determined by Notice to Proceed

## **CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES**

This Contract is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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 Loggerhead Marinelife Center, Inc., a not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. is 59-2445926

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

### **ARTICLE 1 - SERVICES**

The CONSULTANT'S responsibility under this Contract is to make 2019 sea turtle nesting data available to Palm Beach County for ongoing research related to regulatory decisions affecting beach management projects and the potential effects of the 2018 red tide event in Palm Beach County as it relates to sea turtle nesting, as more specifically set forth in the Scope of Work detailed in Exhibit "A". Services performed by the CONSULTANT under this Contract shall be considered a one-time effort specifically related to events taking place in 2018 and 2019 and shall not set a precedent for future monitoring services.

The COUNTY'S representative/liaison during the performance of this Contract shall be Deborah Drum, telephone no. 561-233-2400.

The CONSULTANT'S representative/liaison during the performance of this Contract shall be Jack Lighton, telephone no. 561-627-8280.

### **ARTICLE 2 - SCHEDULE**

The CONSULTANT shall commence services upon receipt of the COUNTY'S written Notice to Proceed and complete all authorized services December 31, 2019.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

### **ARTICLE 3 - PAYMENTS TO CONSULTANT**

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials including, if applicable, "out of pocket" expenses (specified in paragraph C below) shall not exceed a total contract amount of Fifty Thousand Dollars (\$50,000). The CONSULTANT shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONSULTANT will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" 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 CONSULTANT 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 will not be reimbursed under the Contract.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the COUNTY. This shall constitute CONSULTANT'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 CONSULTANT.

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

Signature of this Contract by the CONSULTANT 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 CONSULTANT'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 consultants. 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 CONSULTANT upon sixty (60) days' prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days written notice to the CONSULTANT or without cause upon ten (10) business days written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the CONSULTANT 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 CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereinunder shall be performed by the CONSULTANT 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 CONSULTANT'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 CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the CONSULTANT'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 CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONSULTANT 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. CONSULTANT 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. CONSULTANT 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 CONSULTANT are not intended to and



shall not in any manner limit or qualify the liabilities and obligations assumed by CONSULTANT under the contract.

- B. **Commercial General Liability** CONSULTANT 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. CONSULTANT shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability** CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.
- E. **Professional Liability** CONSULTANT shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims - made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, CONSULTANT shall purchase a SERP with a minimum reporting period not less than 3 years. CONSULTANT shall provide this coverage on a primary basis.

**Additional Insured** CONSULTANT 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.**" CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.

- F. **Waiver of Subrogation** CONSULTANT hereby waives any and all rights of Subrogation

against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement to the policy, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which specifically prohibits such an endorsement, or which voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

- G. **Certificate(s) of Insurance** Prior to execution of this Contract, CONSULTANT 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 33411-2743."
- H. **Umbrella or Excess Liability** If necessary, CONSULTANT may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- I. **Right to Review** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

#### **ARTICLE 11 - INDEMNIFICATION**

CONSULTANT 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 CONSULTANT.

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

The COUNTY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors,

administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other.

### **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 a court of competent jurisdiction located in Palm Beach County, Florida. 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 CONSULTANT.

### **ARTICLE 14 - CONFLICT OF INTEREST**

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The CONSULTANT further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONSULTANT 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 CONSULTANT'S judgement 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 CONSULTANT 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 CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT 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 CONSULTANT under the terms of this Contract.

### **ARTICLE 15 - EXCUSABLE DELAYS**

The CONSULTANT 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 CONSULTANT 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 CONSULTANT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'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 CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'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 CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

**ARTICLE 19 - CONTINGENT FEES**

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT 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 CONSULTANT, 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 CONSULTANT 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 CONSULTANT'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 CONSULTANT, 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 COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CONSULTANT warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, 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, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

**ARTICLE 22 - AUTHORITY TO PRACTICE**

The CONSULTANT 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 CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 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 CONSULTANT of the COUNTY'S notification of a contemplated change, the CONSULTANT 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 CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONSULTANT 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 CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT 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 CONSULTANT, notices shall be addressed to:

Jack Lighton, CEO  
Loggerhead Marinelife Center  
14200 US Highway One  
Juno Beach, FL 33408

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

The COUNTY and the CONSULTANT 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**

The CONSULTANT, CONSULTANT'S employees, subcontractors of CONSULTANT and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolution R-2003-1274, as amended. The CONSULTANT is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the CONSULTANT acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolution R2003-1274, as amended. COUNTY staff representing the COUNTY department will contact the

CONSULTANT(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The CONSULTANT shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the CONSULTANT or its subcontractor(s) terminates an employee who has been issued a badge, the CONSULTANT must notify the COUNTY within two (2) hours. At the time of termination, the CONSULTANT shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend the CONSULTANT if the CONSULTANT 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not contact the COUNTY regarding a terminated CONSULTANT employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

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

The CONSULTANT shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT 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 - SCRUTINIZED COMPANIES (when contract value is greater than \$1 million)**

- A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.
- B. **When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

If the COUNTY determines, using credible information available to the public, that a false certification has been submitted by CONSULTANT, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

#### **ARTICLE 31 - PUBLIC RECORDS**



Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the CONSULTANT: (i) provides a service; and (ii) acts on behalf of the COUNTY as provided under Section 119.011(2) F.S., the CONSULTANT shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The CONSULTANT 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 CONSULTANT 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 Consultant does not transfer the records to the public agency.
- D. Upon completion of the Contract the CONSULTANT shall transfer, at no cost to the COUNTY, all public records in possession of the CONSULTANT unless notified by 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 CONSULTANT transfers all public records to the COUNTY upon completion of the Contract, the CONSULTANT shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically by the CONSULTANT 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 COUNTY.

Failure of the CONSULTANT 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. CONSULTANT 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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 E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.**

Attachments:

Exhibit A: Scope of Work

Exhibit B: Schedule of Payments

*Remainder of page intentionally left blank.*

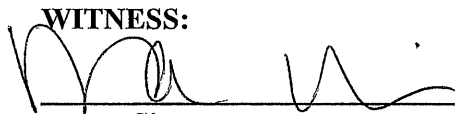
IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

ATTEST:  
SHARON R. BOCK  
CLERK AND COMPTROLLER

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:

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

By: \_\_\_\_\_  
Mack Bernard, Mayor

WITNESS:  
  
Signature

Maureen Verity  
Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (type or print)

CONSULTANT:  
Loggerhead Marine Life Center  
Company Name

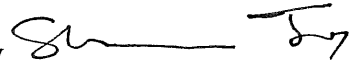
Spawer  
Signature

Carlin Farmer  
Typed Name

CFO  
Title

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

(corporate seal)  
[OR]  
(not-for-profit corporate seal)

By   
Assistant County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

By   
Deborah Drum, Director  
Department of Environmental Resources Management

**SCOPE OF WORK**

Loggerhead Marinelife Center, Inc. (hereafter referred to as the CONSULTANT) shall provide 2019 sea turtle nesting data for ongoing COUNTY research related to regulatory decisions that affect beach management projects conducted by the COUNTY and the potential effects of the 2018 red tide event as it relates to sea turtle nesting, as set forth in this Scope of Work. Data shall be made available for beaches extending from Jupiter Inlet to the north boundary of John D. MacArthur State Park (7.55 miles).

The CONSULTANT shall obtain all Florida Fish and Wildlife Conservation Commission (FWC) Marine Turtle Permits (Marine Turtle Permit) required for sea turtle monitoring and maintain these permits in good standing at all times. All reports required by the Marine Turtle Permit shall be timely submitted to FWC by the CONSULTANT.

Data made available will include standard nesting survey data and marked nest evaluation results. All data provided under this contract shall remain the CONSULTANT's property and may be utilized by the COUNTY for research as necessary.

Daily nesting survey data will be provided from March 1 – October 31, the window mandated by the FWC Marine Turtle Handbook. The following parameters shall be provided for each crawl encountered:

- A. Date
- B. Start and end time of the survey
- C. Staff member(s) conducting survey
- D. Survey zone
- E. Species of turtle
- F. Crawl type
- G. Estimated distance from the egg chamber or landward extent of the non-nesting emergence to the most recent high water line
- H. Estimated distance from the egg chamber or landward extent of the non-nesting emergence to the vegetated toe of dune
- I. Number of abandoned body pits
- J. Number of abandoned egg chambers
- K. Any interaction with an escarpment regardless of height; scarps are defined as a steep change in beach elevation (those exceeding a slope of 60 degrees) and can be classified as those on the open beach (Beach Scarp) or those at the toe of the dune (Dune Scarp)
- L. Any obstructions (natural or man-made) encountered by the turtle and the turtle's response to that obstruction. Interactions with beach furniture, boats, or recreational equipment shall be recorded on a FWC Obstructed Nesting Attempt form and submitted to FWC per their guidelines and to the COUNTY with monthly data submittal.

Nests shall be marked and monitored in accordance with FWC Marine Turtle Handbook. The number of marked nests shall be determined by the CONSULTANT per the conditions for Nest

Productivity Assessment defined in the Handbook. For each marked nest, the following parameters shall be recorded:

- A. Number of hatched eggs
- B. Number of unhatched eggs
- C. Number of pipped live eggs
- D. Number of pipped dead eggs
- E. Number of live hatchlings
- F. Number of dead hatchlings
- G. Number of spacer eggs
- H. Depth to the top of the chamber (inches)
- I. Depth to the bottom of the chamber (inches)

Each marked nest shall be assigned a fate according to the following codes:

- A. Hatched (H) – hatched, eggs found
- B. Hatched (HNO) – hatched, emergence not observed, eggs found
- C. Predated (PD) – predated, any number of eggs lost
- D. Protected (PR) – marked solely for protection or project purposes
- E. Poached (PV) – poached, any number of eggs lost
- F. Washout (WO) – eroded prior to anticipated or actual emergence, any number of eggs lost
- G. Lost (L) – not evaluated due to erosion after anticipated or actual emergence or proximity to a viable nest, all marking stakes removed and GPS coordinates unavailable, etc.
- H. Could Not Locate (CNL) – eggs unable to be located
- I. Scavenged (SCV) – predated after hatchling emergence, any number of eggs lost
- J. Turtle Scattered (TS) – eggs scattered by nesting female, any number of eggs lost

If a nest fate of “Lost” is assigned, an explanation of the circumstances shall be entered into the comments section (example: nest eroded on 9/21 from Hurricane Xavier at 74 days post-deposition). If hatchling emergence is not observed after 70 days (80 days for leatherbacks), the nest site shall be excavated to locate the clutch. A nest fate of “Could Not Locate” shall only be used after a 4’x4’x4’ area has been excavated. Regardless of circumstances surrounding the nest (not-found clutch, relocated stake, etc.) all efforts shall be made to locate nest contents. Nest stakes are not to be pulled without an attempt to locate the clutch unless the nest has been washed out or predated. All relocated nests shall be marked and evaluated, regardless of species or marking rotation.

All sea turtle crawl data and nest inspection results shall be entered into the COUNTY web-based data management system (database) within 30 days of collection and shall be verified for accuracy. In the event the COUNTY database fails to function as designed, the CONSULTANT and the COUNTY shall determine mutually agreeable alternatives for data management and reporting.

**SCHEDULE OF PAYMENTS**

The Scope of Work to be completed by CONSULTANT as defined in Exhibit "A" consists of specific completion phases which shall be clearly identified on a phase-by-phase basis upon submission to the COUNTY of certain "deliverables"\* as expressly indicated below. Compensation for the work tasks stated herein represent a one-time value for the data provided. The data provided is below market rate and does not set a standard for any future sea turtle monitoring or data sharing agreements. Compensation for the work tasks stated herein shall be in accordance with the following Schedule of Payments:

**Task 1**

Task(s) to be Completed: as set forth in Exhibit A.

Deliverable due date: daily as set forth in Exhibit A.

Monthly compensation (March-December): \$5,000

\* "Deliverables" shall be defined as progress reports, prepared maps, bid documents, completed drawings, specific reports, work plans, documentation of meetings attended, assessment study reports, analysis reports, summary reports, recommendation reports and related draft reports and verifiable deliverables.