

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	April 2, 2019	(X) Consent	() Regular
		() Workshop	() Public Hearing

Department:	<u>Environmental Resources Management</u>
Submitted By:	<u>Environmental Resources Management</u>
Submitted For:	<u>Environmental Resources Management</u>

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve a Contract for Consulting/Professional Services with Florida Atlantic University (FAU) for an amount not to exceed \$4,391, providing for a three-year period of sediment analysis and beach profiling related to the North County Comprehensive Shoreline Stabilization Project (NCCSSP), beginning upon execution of this Contract and expiring December 31, 2021; and

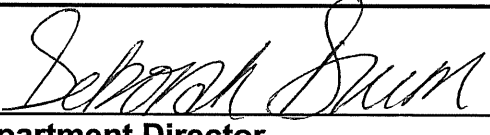
B) authorize the County Administrator, or designee, to sign all future time extensions, task assignments, certifications, and other forms associated with this Contract, and any necessary minor amendments that do not significantly change the scope of work, terms, or conditions of this Contract.


Summary: This contract will provide critical sediment analysis and beach profile data to answer questions addressed in the recent permitting process for the NCCSSP. This data will be correlated to sea turtle nesting data and analyzed to provide an overall assessment of the project and sand source. This contract is funded by beach management funds allocated to the NCCSSP. District 1 (SF)

Background and Justification: Since 2015, Palm Beach County Environmental Resources Management has partnered with FAU to look at the potential impacts of beach nourishment on sea turtle nesting due to alterations in sediment characteristics or beach profiles. The work authorized under this contract is a continuation of this project with a specific focus on the NCCSSP to help answer questions addressed in the recent permitting process.

Attachment:

1. Contract

Recommended by:	<u></u>	<u>3-4-19</u>
	Department Director	Date

Approved by:	<u></u>	<u>3/19/19</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	<u>\$4,391</u>	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$4,391</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes <u>X</u>		No _____		
Does this item include the use of federal funds?	Yes _____		No <u>X</u>		
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	\$2,195.50
3652-381-M028-3401 - Juno Beach Shoreline Protection	\$2,195.50

C. Department Fiscal Review:

S. Neary

III. REVIEW COMMENTS

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

Robert R. ... 3/8/19
OFMB 3/7

Dr. J. Jacobson 3/19/19
Contract Development and Control
3/19/19 TW

B. Legal Sufficiency:

Sam ...
Assistant County Attorney

C. Other Department Review:

Department Director

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 Florida Atlantic University Board of Trustees, an institution of higher education authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. is 65-0385507.

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 shoreline surveying and sediment sampling, 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, Director of Environmental Resources Management, telephone no. (561) 233-2400.

The CONSULTANT'S representative/liaison during the performance of this Contract shall be as specified in Article 26.

ARTICLE 2 - SCHEDULE

The CONSULTANT shall commence services upon execution of this contract by the Board of County Commissioners and complete all services by December 31, 2021.

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

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 Four Thousand Three Hundred Ninety-One Dollars (\$4,391.00). The CONSULTANT will bill the COUNTY, at the time and in the amounts set forth in Exhibit "B" for services rendered toward the completion of the Scope of Work. Invoices shall be sent to: kmartin@pbcgov.org and jbaez1@pbcgov.org, with a delivery receipt to confirm delivery.
- 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 including, but not limited to, mailing charges, copying fees, telephone charges, and miscellaneous supplies will not be reimbursed under this 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's representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon 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 and except as otherwise directed by the COUNTY 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, as confirmed in writing by the COUNTY.

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 represents 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

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (Statute), the CONSULTANT represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended.

If CONSULTANT is not self-insured, CONSULTANT shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the Statute.

Should CONSULTANT purchase excess liability coverage, CONSULTANT agrees to include COUNTY as an Additional Insured.

The CONSULTANT agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes.

Should CONSULTANT contract with a third-party (Contractor) to perform any service related to the AGREEMENT, CONSULTANT shall require the Contractor to provide the following minimum insurance:

Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include CONSULTANT and COUNTY as Additional Insureds. CONSULTANT shall also require that the Contractor include a Waiver of Subrogation against COUNTY.

Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.

Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the CONSULTANT shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance.

Compliance with the foregoing requirement shall not relieve the CONSULTANT of its liability and obligations under this Agreement.

ARTICLE 11 - INDEMNIFICATION

To the extent provided under Section 768.28 of the Florida Statutes, the CONSULTANT assumes any and all risks of personal injury and property damage, deprivation, or infringement (including, but not limited to, intellectual property) attributable to the negligent acts or omissions of the CONSULTANT and its officers, employees, servants, and agents while acting within the scope of their employment by the CONSULTANT. Nothing contained herein shall be construed or interpreted as (1) denying to the CONSULTANT any remedy or defense available to it under the laws of the State of Florida; (2) the consent of the CONSULTANT, its affiliates, the Board of Governors, the State of Florida or its officers, employees, servants, agents, agencies, political subdivisions, or public bodies corporate to be sued; (3) a waiver of sovereign immunity of the CONSULTANT, its affiliates, the Board of Governors, the State of Florida or its officers, employees, servants, agents, agencies, political subdivisions, or public bodies corporate beyond the waiver provided in Section 768.28, Florida Statutes; or (4) constituting a hold harmless agreement on the part of the 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.

CONSULTANT reserves to itself and its employees the right to publish the results of the Project in whole or in part as they deem appropriate. In order that the premature public disclosure of such information does not adversely affect the interests of the parties, CONSULTANT shall provide the COUNTY'S representative/liaison with a copy of each manuscript using data and information obtained as a result of this Contract that is intended for publication. The COUNTY may request delay in publication for a period of time determined necessary by the COUNTY. If the COUNTY does not make written request for delay in publication within sixty (60) days after receipt of a manuscript, CONSULTANT shall be free to publish the manuscript at any time at the end of the sixty (60) days. CONSULTANT reserves the right to use the results of this work for educational or research purposes.

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, 4th 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:

Patrice Cochran, Proposal & Contract Administrator
Florida Atlantic University
777 Glades Road, Building 104, Room 312
Boca Raton, FL 33431

With copy to:

Dr. Tiffany Briggs, Assistant Professor
Department of Geosciences
Florida Atlantic University
777 Glades Road, SE 470
Boca Raton, FL 33431

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:

CONSULTANT:

Tracy Vuong
Signature

Florida Atlantic University Board of Trustees
Company Name

Tracy Vuong
Name (type or print)

Miriam Campo
Signature

Patrice Cochran
Signature

Miriam Campo
Typed Name

Patrice Cochran
Name (type or print)

Assistant Vice President for Research
Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

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

By [Signature]
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By Deborah Drum
Deborah Drum, Director
Department of Environmental Resources Management

Florida Atlantic University
2/21/19

SCOPE OF WORK

Project description:

The beach ecosystem, where sea turtles nest, is naturally influenced by changes in beach and dune erosion or accretion (Roberts and Wang, 2012), high tide flooding (Witham 1982), and seasonal disturbances such as hurricanes or tropical storms with high winds, waves, and inundation (Goldenberg et al., 2001; Pike and Stiner, 2007; Webster et al., 2005) leading to erosion and reduced habitat (Figure 1). One of the most common responses to beach erosion in the United States (and certainly Florida) is beach renourishment (Rumbold et al., 2001), and more recently, nearshore placement (Brutsche' et al., 2014). Although many benefits are cited in association with beach nourishment, such as storm protection, creation of habitat and recreational space, increased tourism, and protection of buildings and infrastructure, additional research is needed to address impacts on species and habitats in emplacement areas (Nordstrom, 2005). Specifically, understanding the thresholds of parameters used in the artificial placement of sediments, such as textural and compositional sediment characteristics that might significantly alter the attributes of the physical environment most conducive for successful sea turtle nesting and hatching (Cisneros and Briggs, 2017), is critical to the future survival of sea turtles. The primary objective of this study is to evaluate potential impacts on sea turtle habitat associated with sediment characteristics of sand used in the 2019-2010 beach nourishment project in Jupiter, Florida.

Methodology:

To evaluate potential impacts of sediment used in the beach nourishment project, time-series beach profile surveys and sediment sampling will be conducted at time-events representing early (March), mid (June/July), and late (October) sea turtle nesting season over three years. A beach nourishment project will be conducted in three segments (Figure 1) from the Jupiter Inlet to ~8 km south of the inlet (scheduled over winter 2019/2010). Segments 1 and 3 will be constructed using an offshore borrow source. Segment 2 will be a dune restoration using mined (upland) sediment.

Sampling will begin the season before the project construction (April 2019-October 2019), one season after project completion (March 2020-October 2020), and the next season after that (March 2021-October 2021). A total of 9 study sites spaced approximately 1500 m apart (Figure 1) have been identified, with 7 located in the project area (2 in Segment 1; 2 in Segment 2, and 3 in Segment 3) and 2 control locations south (downdrift of) the project construction area. Beach profiles (xyz) will be collected at each study site from the dunes (or other physiographic delineation of the landward extent of the beach environment) to wading depth (approximately 1 m water depth) to provide sufficient spatial (alongshore) variability of each location. Horizontal and vertical controls for the survey lines will be established using Real-Time Kinematic (RTK) Global Positioning System (GPS). Level and transit survey procedures using an electronic total station will be used for the surveys. A total of 27 transects will be surveyed each year, for three years. Dr. Briggs lab routinely conducts this type of morphologic monitoring.

At each location, sediment sampling of three cross-shore locations will represent the backbeach (where green and loggerhead sea turtles tend to nest), mid-beach (where loggerhead and leatherback turtles tend to nest), and the shoreline/MHW (where leatherbacks could nest, and

the location where all species of turtles will come onto the beach). At each of these locations, sediment will be sampled from the surface, as well as at 45 and 75 cm depth below surface (representing average depth of the mid and bottom nest dimensions). All samples will be analyzed for grain size distribution and bulk statistics (e.g., mean grain size and sediment sorting). Grain size distribution and statistics will be determined from sediment analysis at half- and quarter-phi sieve intervals between -4 (16 mm) and 4 ϕ (63 μ m) using a Ro-Tap Sediment Shaker. Carbonate content will be determined based on dissolution in a bath of diluted hydrochloric acid. Color will be visually determined using the Munsell color chart. A total of 243 samples will be collected each year (81 samples for each sampling event), for a total of 729 samples over the project duration. Dr. Briggs' research lab routinely conducts this type of granulometric and compositional analyses of sediment.

In addition, HOBO temperature loggers will be placed at each study site and cross-shore location, at 45 and 75 cm depths, to monitor potential temperatures encountered by sea turtle embryos across the nesting season. Equipment and monitoring (data download) will be an in-kind contribution by Palm Beach County, Dept. of Environmental Resources Management (PBC ERM). In addition, all sea turtle nesting, hatching, and emergence statistics will be provided by a licensed surveyor contracted by PBC ERM, and to Dr. Briggs directly from PBC ERM.

Dr. Briggs will oversee the planning and execution of the research project. Tynon Briggs, Ph.D. student in Geosciences, will be the lead on conducting all field and laboratory data collection and analyses, as part of his graduate research. It is likely one MS student will participate, and anticipated that one or more undergraduate DIS students may assist with various portions of the project. Thus, this project offers an opportunity for several students to conduct research in collaboration with a community partner (i.e., PBC ERM), gaining knowledge and experience in both the academic and real-world settings.

The product of this effort will be a report to PBC ERM with data sheets and summary of results (including morphology change, sediment distribution variability, temperature variability, and sea turtle nesting and hatching statistics). In addition, it is expected that this project will constitute a large portion of Tynon Briggs' Ph.D. research and should produce one or more peer-reviewed publications; in addition to potential MS and undergraduate research project opportunities for theses and/or publications.

Budget and Justification:

Budget total: \$4,391

Travel: The proposed activity will require mobilization from the FAU Boca Raton campus to north Jupiter, FL. The mileage rate of \$0.445/mile is requested for the 90 miles roundtrip for three sampling events each year (plus two storm-related sampling events, should a major storm influence the area during nesting season). \$201 is requested in years 1- 3, for a total of \$603 of requested domestic travel-related funds.

Materials and Supplies: A total of 243 samples will be collected per year. Total cost of sediment analysis is \$1,070 for the initial year, which includes the purchase of hydrochloric acid and sediment sample bags, and \$920 for each subsequent year. The three-year total for sediment analysis is \$2,910.

Indirect cost: The indirect cost based on previous negotiations with Palm Beach County is 25%.

Summary for 3 year project:

Subtotal requested: \$3,513

Indirect: \$878

TOTAL: \$4,391

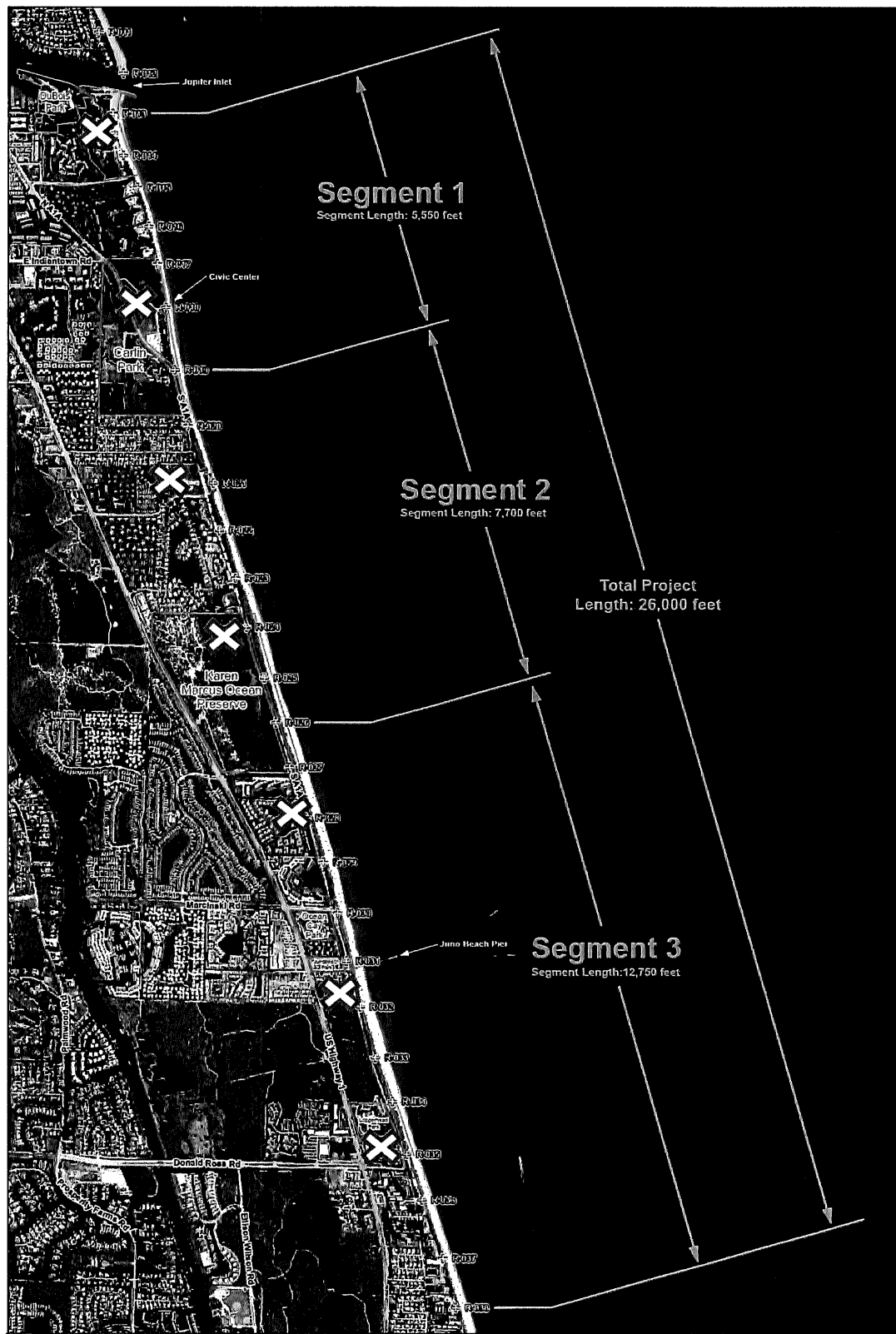


Figure 1. Beach and dune restoration project location, showing construction segments. Approximate study sites indicated by yellow "X" (7 shown within project area; 2 control sites south of map extent).

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 shall be in accordance with the following Schedule of Payments:

Sampling Event #1

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: April 2019

Compensation for Sampling Event 1: \$721

Deliverable(s) Required: Email documenting the date and the sampling event and the number of samples successfully collected. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #2

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: June/July 2019

Compensation for Sampling Event 2: \$434

Deliverable(s) Required: Email documenting the date and the sampling event and the number of samples successfully collected. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #3

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: October 2019

Compensation for Sampling Event 3: \$434

Deliverable(s) Required: A one-page summary of the year including sampling dates, number of samples successfully collected, and any preliminary results. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #4

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: March 2020

Compensation for Sampling Event 4: \$533

Deliverable(s) Required: Email documenting the date and the sampling event and the number of samples successfully collected. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #5

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: June/July 2020

Compensation for Sampling Event 5: \$434

Deliverable(s) Required: Email documenting the date and the sampling event and the number of samples successfully collected. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #6

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: October 2020

Compensation for Sampling Event 6: \$434

Deliverable(s) Required: A one-page summary of the year including sampling dates, number of samples successfully collected, and any preliminary results. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #7

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: March 2021

Compensation for Sampling Event 7: \$533

Deliverable(s) Required: Email documenting the date and the sampling event and the number of samples successfully collected. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #8

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: June/July 2021

Compensation for Sampling Event 8: \$434

Deliverable(s) Required: Email documenting the date and the sampling event and the number of samples successfully collected. Hard copy of invoice to be provided after completion of data collection.

Sampling Event #9

Task(s) to be Completed: Sediment collection, analysis, and beach profiles taken at 9 transects as described in the scope of work.

Completion Time: October 2021

Compensation for Sampling Event 9: \$434

Deliverable(s) Required: A one-page summary of the year including sampling dates, number of samples successfully collected, and any preliminary results. Hard copy of invoice to be provided after completion of data collection.