

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: June 16, 2020 (X) Consent () Regular
() Workshop () Public Hearing

Department: Environmental Resources Management

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve a Grant Agreement (Agreement) with The Nature Conservancy (Conservancy) to provide up to \$300,000 for construction costs for the Palm Beach Resilient Islands Project (Project) that expires on October 31, 2021;

B) approve a Budget Amendment for \$300,000 that will be placed into the Palm Beach Resilient Islands Project Funds; and

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

Summary: Conservancy will reimburse the County up to \$300,000 to cover the construction costs of a resiliency project within the Lake Worth Lagoon (LWL) provided work meets the acceptance criteria as outlined in the Agreement. This Project will act as a demonstration model that could be used in the design of future projects to provide coastal resilience in the County. The County contribution will include in-kind services associated with field surveys, environmental permitting and construction management for this project. District 7 (SS)

Background and Justification: Conservancy is interested in developing strategies to design and build infrastructure demonstration projects with local governments to provide resiliency to its coastal habitats. The \$300,000 funding agreement with Conservancy will be the County's initial effort in creating this type of project. The Project will be designed within the LWL and consist of oyster reefs, breakwaters and intertidal islands. Based on its success, this may be the first of many projects of this type with Conservancy. The standard Inspector General language is not in the agreement, but there is language requiring Conservancy to comply with all County ordinances.

Attachments:

- 1. Grant Agreement
- 2. Budget Amendment

Recommended by: Seborah Dwyer 4/30/2020 SAS 4/30/20
Department Director **Date**

Approved by: Pae 5/21/20
Assistant County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	\$300,000	_____	_____	_____	_____
External Revenues	(\$300,000)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	0	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____			No <u>X</u>	
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:

C. Department Fiscal Review:

_____ *C. Henry*

III. REVIEW COMMENTS

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

[Signature] 5/14/2020
OFMB *[Signature]* 5/12

[Signature] 5/19/2020
Contract Development & Control
5/18/20 TW

B. Legal Sufficiency:

[Signature] 5/20/2020
Assistant County Attorney

C. Other Department Review:

Department Director

ATTACHMENT 1



Grant Number:	FY20-F105203-01-PBC
Accounting Information –	
Project Name:	South FL Coastal Resilience / Batchelor
Project-Award-Activity Number:	P119180 / F105203
Source of funds:	Private Foundation <input checked="" type="checkbox"/> Private <input type="checkbox"/>

GRANT BY TNC TO GRANTEE – PRIVATE FUNDS

This is a private grant agreement (“Grant”) between The Nature Conservancy, a District of Columbia non-profit corporation, authorized to transact business in the State of Florida as The Nature Conservancy, Inc. (the “Conservancy”) and Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (“Grantee”) in the amount not to exceed \$300,000 for the Palm Beach Resilient Island Project. This Grant is provided to support the Conservancy’s campaign in Florida to restore 5,000 acres of coastal habitat and protect 500,000 Floridians from storm surges and sea level rise. By developing and implementing natural infrastructure demonstration projects with local governments, the Conservancy seeks to restore coastal habitat and illustrate the viability of natural infrastructure as well as nature-based and green-gray infrastructure as cost-effective and scalable solutions for coastal resilience.

Attachments to this Grant include the following:

- A – Work Plan
- B – Financial Report
- C – Performance Report

I. OBJECTIVE

The purpose of this Grant is to fund Grantee’s **Palm Beach Resilient Island Project** (“Project”) as described in the attached workplan and budget (“Attachment A”).

II. TERM

The Grant shall be effective upon execution by both parties, and it shall expire on **October 31, 2021**.

III. REPORTING

Grantee shall submit the following reports using the attached formats (“Attachment B” and “Attachment C”): Financial reports and performance reports shall be submitted semiannually as outlined below. The final financial and performance reports are due by October 31, 2021.

Financial & Performance Reports	Period of Service	Due Date
First Interim	Execution – 9/30/2020	10/31/2020
Second Interim	10/1/2020 – 3/31/2021	4/30/2021
Final	4/1/2021 – 9/30/2021	10/31/2021

These reports shall be submitted by email or mail to:

Joseph D. Schmidt, P.E., Coastal Resilience Project Manager
250 South Australian Ave, Suite 1100, West Palm Beach, Florida 33401
joseph.schmidt@tnc.org

And

Susanne Holmes, Grants Specialist
801 Gervais Street, Ste 202, Columbia, SC 29401
sholmes@tnc.org

IV. PAYMENTS

A reimbursement payment of up to \$300,000 will be made to the Grantee upon completion of construction for the Project and submission and acceptance of the final deliverables. Notwithstanding anything contained in this Agreement to the contrary, the Conservancy’s obligations shall not exceed Three Hundred Thousand Dollars (\$300,000) in cash contributions as described in Attachment A, Section III. Budget. When requesting reimbursement, the Grantee shall attach an invoice and other supporting documentation to the financial report (Attachment B) for verification of actual construction expenses.

V. EXPENDITURE LIMITED TO DESIGNATED PURPOSES

Grant funds may be spent only in accordance with the provisions of the Grantee’s funding request and budget as set forth in Attachment B . Expenditure of Grant funds is subject to modification only with the Conservancy’s prior written approval. Any Grant funds not expended or committed for the purposes of this Grant must be returned to the Conservancy.

The Conservancy may monitor and evaluate the Program’s activities, which may include visits by Conservancy personnel and agents, discussions with Grantee’s personnel, and review of financial and other records and materials related to the Program activities financed by this Grant in an effort to determine whether Grantee’s activities meet the Conservancy’s funding objectives.

VI. PROVIDING FUNDS TO OTHERS – Intentionally Deleted

VII. DISCLOSURE OF INTERNAL CONFLICTS OF INTEREST

The Grantee must disclose to the Conservancy any proposed use of funds and/or assets for activities in which there is an apparent or actual conflict of interest between the Grantee and its employees, board members, or close relatives of the Grantee’s employees or board members and make such expenditure subject to prior Conservancy approval.

VIII. PROCUREMENT

The Grantee will follow its own policies with regard to documentation of procurements and maintain that documentation in their organization's grant files. If the Grantee does not have written procurement policies, it must retain documentation for procurements (over US \$5,000 outside the U.S. or over \$10,000 in the U.S.). Such documentation will include sole source justification, if appropriate, or documentation of a competitive process or comparison shopping.

IX. RECORDS AND AUDITS

The Grantee agrees to maintain books, records, documents and other evidence pertaining to all costs and expenses incurred and revenues acquired under this Grant to the extent and in such detail as will properly reflect all costs and expenses for which reimbursement is claimed. These records shall be maintained for a period of three years after the final expenditure report is submitted.

The Conservancy and its auditors (internal and external) will have access to all records relating to the Grant for three years after the final financial and programmatic reports for the Grant have been submitted to the Conservancy, unless local law requires a longer retention period.

X. SEGREGATION OF COSTS

The Grantee will segregate the costs of the project described herein from other projects that it currently administers.

XI. JUSTIFICATION OF SALARY EXPENSES

The Grantee must track employees' actual time spent on the entire Project in a time and effort reporting system.

XII. TITLE TO AND USE OF PROPERTY

Title to any property purchased with Grant funds vests in the Grantee. The Conservancy may not be charged for use of any property purchased with Grant funds.

XIII. INTELLECTUAL PROPERTY LICENSE

Title to any Materials developed with Grant funds vests in the Grantee, with the Conservancy getting free irrevocable license to use, publish or distribute all such copyrighted, trademarked, patented Materials, or inventions, trade secrets or other intellectual property rights. The word "Materials" may include, but is not limited to reports, studies, photographs (and negatives), computer programs, drawings, writings or other similar works or documents, along with all supporting data and material, produced under this Agreement. The Grantee agrees to provide the Conservancy with copies of the Materials at no cost.

XIV. ACKNOWLEDGMENTS

The Grantee agrees to acknowledge the Conservancy's support of the project, including funding contributions and sponsorship, on all media announcements, programs and publications relating to the Project.

XV. ASSIGNMENT

This Grant may not be assigned by the Grantee in whole or in part without the prior written consent of the Conservancy.

XVI. NO AGENCY

No legal partnership or agency is established by this Grant. Neither party is authorized or empowered to act as an agent, employee or representative of the other, nor transact business or incur obligations in the name of the other party or for the account of the other party. Neither party shall be bound by any acts, representations, or conduct of the other.

XVII. TERMINATION AND REMEDIES

The Conservancy shall have the right to terminate this Grant for any reason by giving 20 (twenty) days written notice to the Grantee of intent to terminate. Should this occur, and Grantee is not in default, Grantee shall be reimbursed for any expenditures incurred as of the date of the notice of termination. In addition, if in the judgment of the Conservancy the Grantee defaults in performance of Grantee duties under this Grant, whether for circumstances within or beyond the control of the Grantee, the Conservancy may immediately terminate this Grant by written notice to the Grantee. Upon receipt of the termination notice from the Conservancy, the Grantee shall take all necessary action to cancel outstanding commitments relating to the work under this Grant. In the event of termination prior to the originally agreed upon expiration, the Conservancy shall pay any obligations incurred by the Grantee that could not reasonably be canceled.

XVIII. LOBBYING AND POLITICAL CAMPAIGNING

Grantee shall not use any portion of funds transferred under this Grant to engage in any lobbying activities unless the parties specifically agree to such lobbying activities in this agreement.

Grantee shall not use any portion of funds transferred under this Grant to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with Section 501(c)(3) of the US Internal Revenue Code.

XIX. LIABILITY

The Grantee acknowledges the waiver of sovereign immunity for liability in tort contained in Florida Statutes Section 768.28 and acknowledges that such statute permits actions at law against the Grantee to recover damages in tort for money damages up to the amounts set forth in such statute for injury or loss of property, personal injury, or death caused by the negligence or wrongful act or omission of an employee of County while acting within the scope of the employee's office or employment under circumstances in which County, if a private person, would be liable under the general laws of the state.

XX. USE OF CONSERVANCY NAME/LOGO

The Grantee may not use the Conservancy's name and/or logo in any way without prior written consent from the Conservancy, except to the extent the work performed contemplates their inclusion in the final work product.

XXI. CONFIDENTIAL INFORMATION

During the course of the performance of this Grant, the Grantee may have access to materials, data, strategies, other information relating to the Conservancy and its programs, or systems, which are intended for internal use only. Any such information acquired by the Grantee, which is not subject to public records disclosure under Section 119, Florida Statutes shall not be used, published, or divulged by the Grantee to any person, firm, or corporation or in any advertising or promotion regarding the Grantee or the Grantee's services, or in any manner or connection whatsoever without first having obtained the written permission of the Conservancy, which permission the Conservancy may withhold in its sole discretion.

XXII. COUNTERPARTS

This Grant, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same Grant. The County may execute the Grant through electronic or manual means. The Conservancy shall execute the Agreement by manual means only, unless the County provides otherwise.

XXIII. COMPLIANCE WITH LAWS

The Grantee represents, warrants, and agrees that, in connection with the transactions contemplated by this Grant: (a) the Grantee can lawfully work in the United States; (b) the Grantee shall obtain, at its own expense (except to the extent otherwise explicitly stated in this Grant) any permits or licenses required for the Grantee's services under this Grant; and (c) the Grantee shall comply with all statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements of the United States, the State of Florida, and any other jurisdiction(s) in which the Grantee is organized or authorized to do business, including but not limited to any applicable anti-bribery statutes, which are applicable to the work to be done by the Grantee under this Grant (in each case, an "Applicable Law"). The Grantee shall not take any actions that might cause the Conservancy to be in violation of any of such Applicable Laws. Grantor shall comply with all applicable statutes, laws, ordinances, rules, regulations, court orders, and other governmental requirements of the United States, the State of Florida, and any other jurisdiction(s) in which the Grantor is organized or authorized to do business.

XXIV. CERTIFICATION REGARDING MATERIAL SUPPORT AND RESOURCES TO TERRORISTS – Intentionally Deleted

XXV. CHOICE OF LAW/FORUM

This Grant shall be interpreted, construed and governed by the laws of Florida and such laws of the United States as may be applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this Grant, the Conservancy and the Grantee agree that litigation shall be conducted in Palm Beach County, Florida.

XXVI. BINDING EFFECT/AMENDMENTS

This Grant shall become binding when signed by the parties. This Grant supersedes all prior or contemporaneous communications and negotiations, both oral and written and constitutes the entire Grant between the parties relating to the work set out above. No amendment shall be effective except in writing signed by both parties.

XXVII. SEVERABILITY

If any provision of this Grant is held invalid, the other provisions shall not be affected thereby.

FOR PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

BY: _____
DAVE KERNER, MAYOR

DATE

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

BY: _____
DEPUTY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: _____
ASSISTANT COUNTY ATTORNEY

DATE

APPROVED AS TO TERMS AND
CONDITIONS

BY:  _____
DIRECTOR, ENVIRONMENTAL
RESOURCES MANAGEMENT

4/30/2020

DATE

FOR THE NATURE CONSERVANCY

BY: Temperince Morgan
TEMPERINCE MORGAN, FLORIDA EXECUTIVE DIRECTOR

4/28/20
DATE

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: Geoffery Rich
GEOFFERY RICH, SENIOR ATTORNEY

4/24/2020
DATE

ATTACHMENT A – Work Plan

I. Introduction

The Conservancy is working to restore coastal habitat and change the way communities in South Florida think about nature – for protection. Healthy coral reefs, mangroves, and beaches reduce wave energy, and they have the potential to buffer coastal communities from storm surges and sea level rise. The traditional approach of building sea walls, bulkheads, revetments, and other gray infrastructure for defensive measures is expensive and more carbon intensive. Gray infrastructure also transfers wave energy to other areas that may accelerate erosion of less armored property, and it characteristically does not enhance habitat or provide space for ecosystem migration. In addition, the loss and degradation of coral reefs, mangroves, and beaches as well as other green or natural infrastructure like salt marshes and oyster reefs leaves the growing population of Floridians more vulnerable to climate change. An estimated 4.6 million people – and 5,300 square miles of property – will be at risk by 2050.

Today, natural infrastructure already provides significant risk-reduction benefits. A recent study funded in part by the Conservancy concluded that mangroves in Florida protected approximately 625,000 people and prevented \$1.5 billion in direct flood damages during Hurricane Irma in 2017. Therefore, restoration and expansion of natural infrastructure can play an even larger – and quantifiable – role in protecting people and businesses tomorrow. By developing and implementing several natural infrastructure demonstration projects in South Florida with local governments, the Conservancy seeks to restore coastal habitat and illustrate the viability of natural infrastructure as well as nature-based and green-gray infrastructure as cost-effective and scalable solutions for coastal resilience.

II. Description of Services

Palm Beach County (“Grantee”) agrees to collaborate with the Conservancy for design, permitting, and construction of the Palm Beach Resilient Island Project (“Project”) by October 31, 2021. Enumeration of roles and responsibilities for this collaboration are as follows:

The Grantee will:

1. Assist the Conservancy with implementing volunteer workdays for planting native vegetation and removal of marine debris in support of the Project and other similar projects within Lake Worth Lagoon;
2. Coordinate with the Conservancy during design, permitting, and construction of the Project;
3. Provide design, permitting, and construction services for the Project including procurement of a construction contractor; and
4. Refrain from disturbing the completed Project in a manner that interferes with the purpose of the Grant, without the written consent of the Conservancy for at least 20 years beyond the end of the Grant term – until October 31, 2041.

The Conservancy will:

1. Lead volunteer workdays for planting native vegetation and removal of marine debris in support of the Project and other similar projects within Lake Worth Lagoon;
2. Coordinate with the Grantee during design, permitting, and construction of the Project;
3. Review and approve the Grantee’s design documents for the Project – such approval shall not be unreasonably withheld; and
4. Provide consulting and communications services to the Grantee in support of the Project and expansion of nature-based solutions and green-gray infrastructure for coastal resilience within Palm Beach County.

ATTACHMENT A – Work Plan

III. Budget

The deliverables and payment schedule for this Grant are as follows:

Deliverables	Due Date	Payment
(1) First Interim Financial Report (2) First Interim Performance Report	10/31/2020	\$0
(3) Second Interim Financial Report (4) Second Interim Performance Report	4/30/2021	\$0
(5) Final Financial Report (6) Final Performance Report (7) Certificate of Final Completion	10/31/2021	Not to exceed \$300,000
Total Not to Exceed		\$300,000

ATTACHMENT B – Financial Report

SUBRECIPIENT FINANCIAL REPORT

(see Instructions worksheet for guidance)

NAME OF ORGANIZATION : **Palm Beach County** SUBAWARD #: **FY20-F105203-01-PBC**
 PROJECT NAME: **Palm Beach Resilient Island Project**
 REPORT PERIOD:
 DUNS#:

Prior period adjustments require a detailed explanation in the notes section provided below.
 Fill in the yellow shaded areas only.

AWARD EXPENSES						
CATEGORIES	Budget (A)	Prior Period Expenses (B)	Prior Period Adjustments (C)	Current Period Expenses (D)	TOTAL Project Expenses to Date (E=B+C+D)	Balance (F= A-E)
A. PERSONNEL	-				-	-
B. FRINGE BENEFITS	-				-	-
C. TRAVEL	-				-	-
D. SUPPLIES	-				-	-
E. CONTRACTUAL	300,000.00				-	300,000.00
F. OTHER	-				-	-
G. TOTAL DIRECT COSTS	300,000.00	-	-	-	-	300,000.00
H. INDIRECT COSTS	-	-	-	-	-	-
I. TOTALS	300,000.00	-	-	-	-	300,000.00
PERCENTAGE OF AWARD BUDGET SPENT					0%	

Explanation of Prior Period Adjustments:

SUMMARY AND REQUEST FOR FUNDS			
	Prior Period Expenses	Current Expenses	Cumulative
TOTAL EXPENSES	-	-	-
TNC SHARE OF EXPENSES	-	-	-
TOTAL TNC FUNDS RECEIVED TO DATE	(enter as positive number)		
REQUESTED TNC FUNDS (Line 2 - Line 4)			-

NAME AND TITLE - PROJECT MANAGER

NAME AND TITLE - FINANCE REPRESENTATIVE

SIGNATURE DATE

SIGNATURE DATE

ATTACHMENT C – Performance Report

Grant Agreement Number: FY20-F105203-01-PBC

Reporting Period: Click or tap here to enter text. to Click or tap here to enter text.

Project Manager: Click or tap here to enter text.

Please provide:

1. A narrative of activities completed during this reporting period, and if applicable, quantify results as measurable products; i.e. percent of budget expended/percent of project completed, acres of land treated/planted, or mass of nutrients removed/captured;
2. Click or tap here to enter text. An explanation of problems, conflicts or concerns, if any, which were encountered during this reporting period;
3. Click or tap here to enter text. A discussion of overall project status and, if warranted, updates or revisions to the project schedule;
4. Click or tap here to enter text. A summary of activities planned for the next reporting period, and if applicable, quantify expectations as measurable products.


Click or tap here to enter text. Please attach any additional items to this Performance Report, if warranted, for further clarification or reference.

BOARD OF COUNTY COMMISSIONERS
 PALM BEACH COUNTY, FLORIDA
 BUDGET AMENDMENT

Fund 1225 Environmental Enhance Nonspec

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED As of 04/23/2020	REMAINING BALANCE
REVENUES								
380-3309 Palm Beach Resilient Islands	6694 Grant From Oth Non-Govt	0	0	300,000	0	300,000		
Total Receipts and Balances		4,200,278	4,090,338	300,000	0	4,390,338		
EXPENDITURES								
380-3309 Palm Beach Resilient Islands	3401 Other Contractual Services	0	0	300,000		300,000	0	0 300,000
Total Appropriations & Expenditures		4,200,278	4,090,338	300,000	0	4,390,338		

ATTACHMENT 2

Environmental Resources Management _____ INITIATING DEPARTMENT/DIVISION Administration/Budget Department Approval OFMB Department - Posted	Signatures & Dates  _____ 4/30/2020 _____ _____	By Board of County Commissioners At Meeting of _____ June 16, 2020 _____ Deputy Clerk to the Board of County Commissioners
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