

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	February 7, 2023	(X) Consent	() Regular
		() Ordinance	() Public Hearing
Department:	<u>Environmental Resources Management</u>		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file Amendment No. 2 to the State of Florida, Florida Department of Environmental Protection (FDEP) Agreement No. 19PB1 (Agreement), for the Jupiter/Carlin Shore Protection Project (Project), extending the Agreement termination from December 30, 2022 to December 30, 2023.

Summary: On October 8, 2019, the Board of County Commissioners approved the Agreement (R2019-1541) providing FDEP cost-share for nourishment construction and first year post construction monitoring, and authorized the County Administrator, or designee, to sign all future time extensions and minor amendments associated with the Agreement. Amendment No. 1 (R2021-0915) extended the termination date by 21 months. Amendment No. 2 extends the Agreement one additional year. The United States Army Corps of Engineers (USACE) completed a 2020 Flood Control and Coastal Emergencies (FCCE) nourishment to repair storm damage associated with Hurricanes Irma and Dorian. Due to the timing of the 100% federally funded FCCE Project, the FDEP funding provided by the Agreement was not used during the original term. In accordance with County PPM CW-O-051, all delegated contracts/agreements/grants must be submitted by the initiating department as a receive and file agenda item. **There is no cost to the County.** District 1 (SF)

Background and Justification: The Project was most recently nourished by the County in 2022 using 50% FDEP cost-share provided by the Agreement. Amendment No. 2 will extend eligibility for FDEP cost-share of permit-required physical and biological monitoring by one year.

- Attachments:**
- 1. Amendment No. 2 to Agreement No. 19PB1
 - 2. Delegation of Authority

Recommended by: *Deborah Drum* _____ **Date** SF 12/19/22
Department Director

Approved by: *Pee* _____ **Date** 1/10/23
Assistant County Administrator

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____		No _____		
Does this item include the use of federal funds?	Yes _____		No _____		
Budget Account No.:	Fund <u>3652</u>	Department <u>381</u>	Unit <u>M045</u>	Object _____	Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:
 No fiscal impact, time extension only.

C. Department Fiscal Review: *S. Neary*

III. REVIEW COMMENTS

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

Previous October 11/5/23
Donna M. ... 11/5/2023
 OFMB 9A 11/5

Ann S. Jacobus 11/9/23
 Contract Dev. and Control
 11/9/23

B. Legal Sufficiency:
[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

Attachment 1

**AMENDMENT NO. 2
TO AGREEMENT NO. 19PB1
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**

This Amendment to Agreement No. 19PB1, as previously amended, (Agreement) is made by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and Palm Beach County Board of County Commissioners, 2300 North Jog Road, 4th Floor, West Palm Beach, Florida 33411 (Grantee), on the date last signed below.

WHEREAS, the Department entered into the Agreement with the Grantee for construction and post-construction monitoring for Jupiter/Carlin Shore Protection Project effective October 31, 2019;

WHEREAS, the parties wish to amend the Agreement as set forth herein as the Grantee has requested an extension to the agreement and the Department has agreed.

NOW THEREFORE, the parties agree as follows:

- 1) The Agreement is extended for a 1 year period to begin December 31, 2022, and remain in effect until December 30, 2023. The Department and the Grantee shall continue to perform their respective duties during this extension period pursuant to the same terms and conditions provided in the Agreement.
- 2) Attachment 3-A, Revised Grant Work Plan, is hereby deleted in its entirety and replaced with Attachment 3-B, Second Revised Grant Work Plan, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Attachment 3-A shall hereinafter refer to Attachment 3-B, Second Revised Grant Work Plan.
- 3) All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistencies may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

The parties agree to the terms and conditions of this Amendment and have duly authorized their respective representatives to sign it on the dates indicated below.

Palm Beach County Board of County Commissioners

Florida Department of Environmental Protection

By: *Scott A. Stone*
Title: Dept. Director, PEC Environ. Res. Mgmt.

By: *Alex Reed*
Secretary or Designee Alex Reed, Director
Office of Resilience and Coastal Protection

Date: 12-5-2022

Date: 12/9/2022

LIST OF ATTACHMENTS/EXHIBITS INCLUDED AS PART OF THIS AMENDMENT:

<u>Specify Type</u>	<u>Letter/Number</u>	<u>Description</u>
Attachment	3-B	Second Revised Grant Work Plan (4 Pages)

Approved as to form and legal sufficiency:

/s/ Scott A. Stone
Scott A. Stone, Assistant County Attorney

ORCP Additional Signatures

John P. Irving Digitally signed by John P. Irving
Date: 2022.12.08 07:58:45 -05'00'

DEP Grant Manager

Randall Wilson Digitally signed by Randall Wilson
Date: 2022.12.08 08:58:43 -05'00'

DEP QC Reviewer

Local Sponsor may add additional signatures if needed below.

**ATTACHMENT 3-B
SECOND REVISED GRANT WORK PLAN**

PROJECT TITLE: Jupiter/Carlin Shore Protection Project

PROJECT LOCATION: The Project is located between Department of Environmental Protection (Department or DEP) reference monuments R13 and R19 along the Atlantic Ocean in Palm Beach County, Florida.

PROJECT BACKGROUND: The Project was initially restored in 1995 and subsequently nourished in 2002. The dune system has been nourished multiple times between 2002 and 2013. The second design-interval nourishment, which was initiated as a federal FCCE storm repair project, was completed in 2015, and included the local-option truck haul nourishment as part of the federal FCCE sand placement and Jupiter Inlet bypassing event. To address erosion caused by Hurricane Irma in 2017, a federal FCCE storm repair project is planned for winter 2019/20. The third design-interval nourishment was completed in 2020 and post-construction monitoring is ongoing.

PROJECT DESCRIPTION: The Project consists of construction and post-construction monitoring.

PROJECT ELIGIBILITY: The Department has determined that 100 percent of the non-federal Project cost is eligible for state cost sharing. Therefore, the Department's financial obligation shall not exceed the sum of \$7,300,000 for this Project or up to 50 percent of the non-federal Project cost, if applicable, for the specific eligible Project items listed, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share. The parties agree that eligibility for cost sharing purposes will be maintained pursuant to 62B-36, Florida Administrative Code (F.A.C.).

The Local Sponsor will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, Florida Statute (F.S.).

Pursuant to Sections 161.091 - 161.161, F.S., the Department provides financial assistance to eligible governmental entities for beach erosion control and inlet management activities under the Florida Beach Management Funding Assistance Program.

Pursuant to 62B-36.005(1)(d), F.A.C., the Local Sponsor has resolved to support and serve as local sponsor, has demonstrated a financial commitment, and has demonstrated the ability to perform the tasks associated with the beach erosion control project as described herein.

The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at:

<https://floridadep.gov/sites/default/files/PhysicalMonitoringStandards.pdf>

One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the Department, unless otherwise specified.

Acronyms:

DEP – Florida Department of Environmental Protection
F.A.C. – Florida Administrative Code
FCCE – Flood Control and Coastal Emergency
F.S. – Florida Statutes
FWC – Florida Fish and Wildlife Conservation Commission

TASKS and DELIVERABLES:

The Local Sponsor will provide detailed scopes of work or a letter requesting advance payment if authorized by Attachment 2, for all tasks identified below, which shall include a narrative description of work to be completed, a corresponding cost estimate and a proposed schedule of completion for the proposed work and associated deliverables. Each scope of work shall be approved in writing by the DEP Project Manager to be included into this work plan for reimbursement.

Task 1: Construction

Task Description: This task includes work performed and costs incurred associated with the placement of fill material and/or the construction of erosion control structures within the Project area. Project costs associated with eligible beach and inlet construction activities include work approved through construction bids and/or construction-phase engineering and monitoring services contracts. Eligible costs may include mobilization, demobilization, construction observation or inspection services, physical and environmental surveys, beach fill, tilling and scarp removal, erosion control structures, mitigation reefs, dune stabilization measures and native beach-dune vegetation. Construction shall be conducted in accordance with any and all State or Federal permits. The Local Sponsor will submit work products to the appropriate State or Federal regulatory agencies as requested by the DEP Project Manager in order to be eligible for reimbursement under this task.

Deliverable: Certification of Completion by a Florida-registered Professional Engineer with documentation of submittal to the Department affirming the construction task was completed in accordance with construction contract documents. For interim payment requests, a Task Summary Report signed by Local Sponsor must be submitted detailing activities completed during the payment request period. The Task Summary Report must include the dates and descriptions of all activities, surveys and reports completed or in progress during the time period of the interim payment request.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than quarterly.

Task 2: Monitoring

State and federal monitoring required by permit is eligible for reimbursement pursuant to program statute and rule. In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(17)(a)(1), F.S., all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Department/Local Sponsor permittee/engineering consultant. The Local Sponsor's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(1), F.S., including a description of organizational, physical, and electronic barriers to be used by the Local Sponsor's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction

environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources. Department approval of the consultant's mitigation plan will be required prior to execution of this Agreement. If at any time the Local Sponsor and/or its engineering consultant fails to comply with this provision, the Local Sponsor agrees to reimburse the Department all funds provided by the Department associated with environmental monitoring for the Project listed.

Task Description: This task includes activities associated with permit-required monitoring conducted in accordance with the conditions specified by state or federal regulatory agencies. All monitoring tasks must be located within or adjacent to the Project area and follow the Department's Regional Coastal Monitoring Program and FWC's marine turtle and shorebird monitoring programs. Guidance for monitoring of nearshore resources is available in the Department's Standard Operation Procedures For Nearshore Hardbottom Monitoring Of Beach Nourishment Projects. The Local Sponsor must submit work products directly to the appropriate state or federal regulatory agencies in accordance with permit conditions to be eligible for reimbursement under this task, unless otherwise directed.

Deliverable: For each interim or final payment, the Local Sponsor will provide a Task Summary Report signed by Local Sponsor containing; 1) An itemized listing of all monitoring activities completed or in progress during the payment request period and, 2) Documentation of submittal to state and federal regulatory agencies of completed monitoring data, surveys and final reports for permit-required work under this task description.

Performance Standard: The DEP Project Manager will review the task deliverable and any associated work products as necessary to verify they meet the specifications in the Grant Work Plan and this task description.

Payment Request Schedule: Payment requests may be submitted after the deliverable is received and accepted and may be submitted no more frequently than quarterly.

Estimated Eligible Project Cost

Task #	Eligible Project Tasks	State Cost Share (%)	Federal Estimated Project Costs	DEP	Local	Total
1	Construction	50.00%		\$7,200,000.00	\$7,200,000.00	\$14,400,000.00
2	Monitoring	50.00%		\$100,000.00	\$100,000.00	\$200,000.00
	TOTAL PROJECT COSTS			\$7,300,000.00	\$7,300,000.00	\$14,600,000.00

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding task end date.

Task No.	Task Title	Budget Category	Budget Amount	Task Start Date	Deliverable Due Date
1	Construction	Contractual Services	\$7,200,000.00	07/01/2018	09/30/2023
2	Monitoring	Contractual Services	\$100,000.00	07/01/2018	09/30/2023
Total:			\$7,300,000.00		



**INTEROFFICE MEMORANDUM
Palm Beach County
Environmental Resources Management**

DATE: December 27, 2019
TO: Verdenia C. Baker
County Administrator
THROUGH: Patrick Rutter *PR*
Assistant County Administrator
FROM: Deborah Drum, Director *DD*
Environmental Resources Management *12-27-19*

**SUBJECT: REQUEST FOR DELEGATION OF APPROVAL AUTHORITY:
State of Florida Department of Environmental Protection Standard
Grant Agreement No. 19PB1 (Agreement) for an amount not to
exceed \$7,300,000 providing for construction and monitoring for
the Jupiter/Carlin Shore Protection Project beginning on July 1,
2018 and expiring March 30, 2021.**

On October 8, 2019, agenda item 3L3 (R2019-1541) the Board of County Commissioners approved the County Administrator, or designee, to sign all future time extensions, task assignments, certifications, and other forms associated with the Agreement, and any necessary minor amendments that do not significantly change the scope of work, terms, or conditions of the Agreement.

This memorandum is my request for delegation of signatory authority for the Director or Deputy Director of Environmental Resources Management (ERM) 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. If you agree, please sign below and return this memorandum. I am available to answer any questions you may have concerning this request. Thank you in advance for your consideration.

APPROVED: *Verdenia C. Baker* **DATE:** *1/13/20*
Verdenia C. Baker, County Administrator