

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	March 14, 2023	<input checked="checked" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	<u>Environmental Resources Management</u>		

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve Amendment No. 1 to the Coral Cove Emergency Dune Restoration Contract No. 2023ERM01 (Contract) providing dune restoration services for the Coral Cove Dune Restoration Project (Project), in order to set a daily rate for Liquidated Damages.

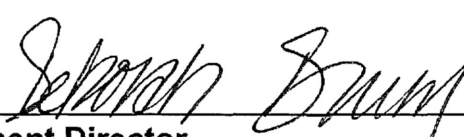

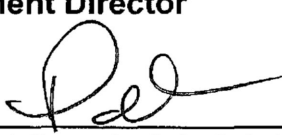
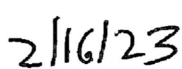
**Summary:** On January 24, 2023, the Board of County Commissioners ratified the \$2,256,930 Contract (R2023-0094) to construct the Project. The Contract inadvertently omitted a term regarding the daily rate of Liquidated Damages. Amendment No. 1 sets the daily rate of Liquidated Damages applicable to the Contract at \$750 and specifies the section inside the Contract documents containing said daily rate. The total Contract amount and all other Contract terms remain unchanged. **There is no cost to the County.** District 1 (YBH)

**Background and Justification:** The Contract provides for emergency dune restoration within the Project area, which suffered extensive erosional damage in November 2022, due to waves generated by Hurricane Nicole. The Contract was executed on December 19, 2022, by the Director of Environmental Resources Management. Restoration of the one mile stretch of dune under the Contract was completed in January 2023.

**Attachment:**

- 1. Amendment No. 1 with Exhibit B

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Recommended by:		
<i>MM</i> <i>Kf ybr</i>	Department Director	Date
Approved by:		
	Assistant County Administrator	Date

**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	<u>  0  </u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____		No _____		
Does this item include the use of federal funds?	Yes _____		No _____		
Fund <u>3652</u> Department <u>381</u> Unit <u>M040</u> Object <u>4630</u> Program _____					
Fund <u>3652</u> Department <u>381</u> Unit <u>M033</u> Object <u>4630</u> Program _____					

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

There is no fiscal impact associated with this item.

C. Department Fiscal Review: *S. Henry*

**III. REVIEW COMMENTS**

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

*for review  
2/13/23*

*Lucy Ma* 2/13/2023  
OFMB

*John L. Jawohl* 2/15/23  
Contract Dev. and Control  
*FM 2/15/23*

**B. Legal Sufficiency:**

*[Signature]* 2/16/23  
Assistant County Attorney

**C. Other Department Review:**

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

**AMENDMENT NO. 1 TO  
CORAL COVE EMERGENCY DUNE RESTORATION CONTRACT  
BETWEEN  
PALM BEACH COUNTY  
AND EASTMAN AGGREGATE ENTERPRISES, LLC**

**THIS AMENDMENT NO. 1 TO THE CORAL COVE EMERGENCY DUNE RESTORATION CONTRACT** is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the "County" and EASTMAN AGGREGATE ENTERPRISES, LLC., a limited liability company authorized to do business in the State of Florida, hereinafter referred to as the "Contractor".

WITNESSETH:

**WHEREAS**, the County and the Contractor entered into a Contract dated December 19, 2022 (R2023-0094) (Contract) in the amount of \$2,256,930 to provide dune restoration services for the Coral Cove Dune Restoration Project (Project), for a term beginning December 19, 2022 and expiring 120 calendar days from the Notice to Proceed; and

**WHEREAS**, the County desires to amend the Contract to set the specific daily rate of Liquidated Damages that was inadvertently omitted from the Contract; and

**WHEREAS**, the County and the Contractor agree to amend the Contract, as provided herein.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants and conditions contained herein, County and Contractor agree as follows:

1. The above recitations are true and correct, and are incorporated herein.
2. General Condition 80 of the Contract, titled "Liquidated Damages," first paragraph, is hereby deleted in its entirety and replaced as follows:

For purposes of the Contract Documents, Liquidated Damages means damages assessed for the contractor's failure to substantially complete the Work within the Contract Time, including any change(s) to Contract Time authorized by Change Order(s) and Written Amendment(s). Should the Contractor or, in the event of its default, the Surety, fail to achieve certification of Substantial Completion of the Work within the Contract Time, the Contractor or, in the event of its default, the Surety shall pay to the County, not as a penalty, but as Liquidated Damages in the daily amount(s) established in the established in the **Schedule of Payments (Exhibit B)**.

3. Exhibit B to the Contract, titled Schedule of Payments, is hereby deleted in its entirety and replaced with the attached **Exhibit B**.

4. It is the intent of the County and the Contractor hereto that this Amendment shall not become binding until the date executed by the County.

5. Except as provided herein, all other terms, conditions, and provisions of the Contract shall remain in full force and effect.

(REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the County and the Contractor hereto have executed this Amendment No. 1 to the Contract on the day and year first written above.

ATTEST:  
JOSEPH ABRUZZO, Clerk of the Circuit Court  
& Comptroller

PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida  
BOARD OF COUNTY COMMISSIONERS

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

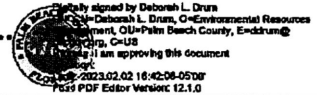
By: \_\_\_\_\_  
Gregg K. Weiss, Mayor

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

/s/Yelizaveta B. Herman  
Assistant County Attorney

APPROVED AS TO TERMS AND  
CONDITIONS

Deborah L. Drum  
Drum



Deborah Drum, Director  
Department of Environmental Resources  
Management

CONTRACTOR:

EASTMAN AGGREGATE  
ENTERPRISES, LLC.

Chris Carstens  
(Witness signature)

Chris Carstens  
(Witness name printed)

Andrew Stude  
(Witness signature)

Andrew Stude  
(Witness name printed)

By: [Signature]  
(Signatory)

By: Bernard Eastman  
(Print signatory's name)

Managing Member  
(Print title)

2-9-23  
(Contractor's signature date)

(Corporate Seal)

**EXHIBIT B  
SCHEDULE OF PAYMENTS  
CORAL COVE  
EMERGENCY DUNE RESTORATION CONTRACT**

Item	Description	Unit	Quantity	Unit Cost	Total Cost
1	SUPPLY SAND	TON	54,000	\$16.25	\$877,500.00
2	TRANSPORT AND DELIVERY - FILL (FIRST TON MILE)	TON-MILE	54,000	2.25	\$121,500.00
3	TRANSPORT AND DELIVERY - FILL (ADDITIONAL TON MILE)	TON-MILE	3,234,600	0.30	\$970,380.00
4	MAINTENANCE OF VEHICULAR AND PEDESTRIAN TRAFFIC	EVENT	1	2,800.00	\$2,800.00
5	CERTIFIED SAND QUALITY TESTING	SAMPLING	35	478.00	\$16,730.00
<b>ZONE A</b>					
6	BEACH PLACE AND GRADE (>2000' FROM ACCESS)	TON	8,000	6.00	\$48,000.00
<b>ZONE B</b>					
7	BEACH PLACE AND GRADE (1000'-2000' FROM ACCESS)	TON	14,000	4.98	\$69,720.00
<b>ZONE C</b>					
8	BEACH PLACE AND GRADE (<1000' FROM ACCESS)	TON	18,000	4.25	\$76,500.00
<b>ZONE C</b>					
7	BEACH PLACE AND GRADE (1000'-2000' FROM ACCESS)	TON	10,000	4.98	\$49,800.00
<b>ZONE E</b>					
6	BEACH PLACE AND GRADE (>2000' FROM ACCESS)	TON	4,000	6.00	\$24,000.00
<b>TOTAL COST:</b>					<b>\$2,256,930.00</b>

Liquidated Damages: The Liquidated Damages rate is 750.00 per calendar day through the date of certification of Substantial Completion.