

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	June 6, 2023	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	<u>Environmental Resources Management</u>		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve Amendment Number 1 to the Material Removal Agreement (Agreement) with Florida Inland Navigation District (District) to provide for the upfront payment of \$3,247,200 to the County.

Summary: On August 23, 2022, the Board of County Commissioners (BCC) approved Agreement (R2022-0884) for payment from the District to the County on a reimbursement basis of up to \$3,500,000 or \$20 per cubic yard, whichever amount is less, for the removal of an estimated 164,000 cubic yards of spoil material from the Dredge Material Management Area Peanut Island (DMMA PI). The spoil material will be used to construct the Bonefish Cove Project (Project), in partnership with the U.S. Army Corps of Engineers (USACE), with the County as the local sponsor. The County is required to provide its share of funds to USACE before it releases the Project for bid. This upfront payment by the District will serve as a portion of the County's monetary contribution to USACE as the local sponsor. **There is no cost to the County associated with this item.** Districts 1, 2, 4, 7 (SF)

Background and Justification: The construction of this Project would not be possible without the partnership with the District to repurpose their dredge material and amend the Agreement. The Project will construct 40 acres of island restoration area in the Lake Worth Lagoon to provide seagrass, mangrove, oyster, and shorebird nesting habitats.

Attachment:

- 1. Amendment Number 1

Recommended by:		<u>4/27/2023</u>
	Department Director	Date SF 4/20/23

Approved by:		<u>5/10/23</u>
	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	_____	_____	_____	_____	_____
# 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 1232 Department 380 Unit 3303 Object 3401 Program _____

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

The fiscal impact was already approved by the Board and this request has no additional fiscal impact.

C. Department Fiscal Review:

Sue Neary
Digitally signed by Sue Neary
 DN: cn=Sue Neary, o=CLATSOP COUNTY, ou=CLATSOP COUNTY, email=sneary@clatsop.k12.or.us, c=US

III. REVIEW COMMENTS

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

*Joy Powell
 5/4/23*
ASD 5/14/23
 OFMB
Dr. D. Jacob 5/19/23
 Contract Development and Control
 5/19/23

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

**REPLACE THIS PAGE WITH THE FIND MATERIAL
REMOVAL AGREEMENT**

(Two Originals)

***Please see attached Final Agreement (not signed by
FIND yet) with Shannon Fox's approval.**

**FIND will be signing at their May 19, 2023 Meeting and
we will get it that night. There will be two originals.**

**This had to be done this way because it needed to go to
the Board at the latest 6/6/23. ERM will walk it through
to Deb and the CAO and take to ADMIN to replace on
Monday, 5/22/23.**

Please call Karen or Jena McNeal with any questions.

Thank you!

TO BE REPLACED
WITH SIGNED
AGREEMENT
ON 5/22/23.

Final Agreement - unsigned
will be signed by FIND on
5/19/23.

**AMENDMENT NUMBER 1 TO
MATERIAL REMOVAL AGREEMENT
BETWEEN
PALM BEACH COUNTY
AND FLORIDA INLAND NAVIGATION DISTRICT**

THIS AMENDMENT TO THE AGREEMENT is made and entered into on this _____ day of _____, 2023 by and between FLORIDA INLAND NAVIGATION DISTRICT, an independent special taxing district of the State of Florida, hereinafter referred to as "DISTRICT," and PALM BEACH COUNTY, FLORIDA a political subdivision of the State of Florida, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the parties entered into an Agreement dated August 23, 2022 (R2022-0884) wherein the District is paying the County to remove spoil material from the Dredge Material Management Area Peanut Island (DMMA PI); and

WHEREAS, the parties desire to amend the Agreement to change the payment structure as described below;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representation herein, the parties agree as follows:

1. Section 3, PAYMENT, of the Agreement, is hereby replaced in its entirety as follows:
 - a) DISTRICT shall pay COUNTY per cubic yard of material removed to cover a portion of the estimated costs for removing the spoil material from the DMMA PI and relocating to the Project site. The cost to the DISTRICT will not exceed \$3,500,000 or \$20 per cubic yard of material removed, whichever amount is less. The total payment is based on an estimated 164,000 cubic yards of spoil material to be removed.
 - b) Upon execution of this Agreement, DISTRICT shall pay COUNTY \$3,247,200 as a deposit toward the final removal cost. COUNTY may immediately apply the deposit toward the cost of the project.
 - c) Upon completion of the project, COUNTY shall deliver to the DISTRICT a certified tally sheet of the volume of spoil material removed from PI in order to calculate the final removal cost and any remaining fees to be paid to COUNTY or refund to be paid to DISTRICT.
 - d) COUNTY shall pay DISTRICT an administrative removal fee in the amount of \$0.20 per cubic yard of material removed. The COUNTY acknowledges that any removed

material shall only be utilized for the Project. Upon completion of the project, the COUNTY shall deliver to the DISTRICT a certified tally sheet of the volume of spoil material removed from PI in order to calculate the final removal cost.

- e) COUNTY shall make any and all payments due hereunder to DISTRICT at the address set forth below unless otherwise notified by DISTRICT in writing:

FLORIDA INLAND NAVIGATION DISTRICT
ATTN: EXECUTIVE DIRECTOR
1314 MARCINSKI ROAD
JUPITER, FL 33477-9427

- f) COUNTY shall pay all administrative removal fees without demand as required to be paid by COUNTY under this Agreement.

2. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement on the day and year first written above.

APPROVED TO FORM AND
LEGAL SUFFICIENCY

AS TO LANDLORD:
FLORIDA INLAND NAVIGATION DISTRICT

Peter L. Breton, Esq., General Counsel

J. Carl Blow, Chair

DATED: _____

DATED: _____

ATTEST:
Joseph Abruzzo
Clerk of the Circuit Court & Comptroller
Palm Beach County

AS TO COUNTY:
Palm Beach County, a political subdivision
of the State of Florida

BY: _____
DEPUTY CLERK

BY: _____

NAME: Gregg K. Weiss

TITLE: MAYOR

DATED: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

BY: _____
Shannon Fox
Assistant County Attorney

BY: _____
Deborah Drum, Department Director
Environmental Resources Management

DATED: _____

DATED: _____

Jena McNeal

From: Shannon Fox
Sent: Friday, April 28, 2023 12:51 PM
To: Jena McNeal; Scott Stone A.
Cc: David Carson; Jennifer Baez; Matt Mitchell
Subject: RE: FIND DMMA PI Agreement Amendment

I am fine with those changes.

From: Jena McNeal <JMcNeal@pbcgov.org>
Sent: Friday, April 28, 2023 12:49 PM
To: Shannon Fox <SXfox@pbcgov.org>; Scott Stone A. <SASStone@pbcgov.org>
Cc: David Carson <DCarson@pbcgov.org>; Jennifer Baez <JBaez1@pbcgov.org>; Matt Mitchell <MMitchell@pbcgov.org>
Subject: RE: FIND DMMA PI Agreement Amendment

Shannon and Scott,

I sent the attached agreement back to Shannon right around the time when the switch to Scott was happening so I wanted to check in. Shannon has already reviewed this once, but FIND's attorney came back with some minor edits. Once either of you confirm there are no issues with their edits, I will send it back to FIND for signature.

Thanks,
Jena

From: Jena McNeal
Sent: Thursday, April 20, 2023 3:53 PM
To: Shannon Fox <SXfox@pbcgov.org>
Cc: David Carson <DCarson@pbcgov.org>; Jennifer Baez <JBaez1@pbcgov.org>; Matt Mitchell <MMitchell@pbcgov.org>
Subject: FW: FIND DMMA PI Agreement Amendment

Hi Shannon,
FIND's attorney requested the attached edits to the FIND Amendment. I do not see an issue with their changes, but wanted to make sure you reviewed it too.

Thanks,



Jena McNeal
Environmental Manager, Environmental Enhancement & Restoration
Dept. of Environmental Resources Management
2300 N Jog Rd., 4th Floor, West Palm Beach, FL 33411
(561)233-2444

From: Janet Zimmerman <jzimmerman@aicw.org>
Sent: Thursday, April 20, 2023 1:51 PM
To: Jena McNeal <JMcNeal@pbcgov.org>
Cc: Matt Mitchell <MMitchell@pbcgov.org>; Michael Stahl R. <MStahl@pbcgov.org>; David Carson <DCarson@pbcgov.org>; Jennifer Baez <JBaez1@pbcgov.org>
Subject: RE: FIND DMMA PI Agreement Amendment

This Message Is From an External Sender

This message came from outside your organization

Jena,
Our attorney had a minor addition to the attached to cover the rare situation of an overpayment once the project is complete. Please let me know if your side is okay with the addition. Any questions just let me know.

Respectfully,
Janet Zimmerman, Assistant Executive Director

Florida Inland Navigation District (FIND)
1314 Marcinski Rd
Jupiter, FL 33477
561-627-3386
www.AICW.org [aicw.org]

From: Jena McNeal <JMcNeal@pbcgov.org>
Sent: Tuesday, April 11, 2023 2:33 PM
To: Janet Zimmerman <jzimmerman@aicw.org>
Cc: Matt Mitchell <MMitchell@pbcgov.org>; Michael Stahl R. <MStahl@pbcgov.org>; David Carson <DCarson@pbcgov.org>; Jennifer Baez <JBaez1@pbcgov.org>
Subject: FIND DMMA PI Agreement Amendment

Hi Janet,
Attached is the Amendment to the FIND Material Removal Agreement to allow for upfront payment by FIND. My understanding is that FIND will be able to take this to their Board for signature in May and we'll execute it at a June Board date.
Let me know if you have any questions.

Thanks,



Jena McNeal
Environmental Manager, Environmental Enhancement & Restoration
Dept. of Environmental Resources Management
2300 N Jog Rd., 4th Floor, West Palm Beach, FL 33411
(561)233-2444

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.