

A G R E E M E N T

Between

BROWARD COUNTY

and

for

Coastal Dune Planting

IN THE AMOUNT OF \$_____

PROVIDING FOR FUNDING AND ADMINISTRATION OF
BEACH SEGMENT III COASTAL DUNE RESTORATION GRANT PROGRAM

This Agreement (the "Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and _____, its successors and assigns, hereinafter referred to as "Grantee."

IN CONSIDERATION of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, County and Grantee agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 Beach Segment III. 6.2 miles of Broward County's shoreline from the John U. Lloyd Beach State Park (JUL), just south of Port Everglades, to the Broward County line in Hallandale Beach.
- 1.2 Board. The Board of County Commissioners of Broward County, Florida.
- 1.3 Contract Administrator. Director of Environmental Planning and Community Resilience Division or such person's successor as designated by County in writing.
- 1.4 County. Broward County, Florida, a political subdivision of the State of Florida.
- 1.5 Division. Broward County Environmental Planning and Community Resilience Division.
- 1.6 Grantee. Recipient of Beach Segment III Coastal Dune Restoration Grant Program Funds pursuant to the terms of this Agreement.
- 1.7 Coastal Dune Restoration Funds. Monies given to Grantee pursuant to the terms of this

Agreement.

- 1.8 Beach Segment III Coastal Dune Restoration Grant Program, or Program. Programs established by Broward County for the purpose of stabilizing coastal beaches in by creating, planting and maintaining a coastal dune on beachfront property in Beach Segment III.
- 1.9 Project. The project or projects set forth in Article 2 hereof, and Exhibit "A" entitled Project Description.

ARTICLE 2. PROJECT

- 2.1 Grantee agrees to provide and implement the following eligible Project more specifically described and set forth in Exhibit "A" attached hereto and by this reference made a part hereof.
- 2.2 Grantee agrees that no work shall begin on the Project until Grantee receives notification from the Contract Administrator. If the Project is begun prior to receipt of such notification, Grantee shall not be eligible for reimbursement under this Agreement.
- 2.3 Grantee shall meet or exceed the standards noted in the project description attached and incorporated in this Agreement, and all applicable codes, ordinances, statutes and any other regulations imposed by any regulatory body or authority governing the design and construction.

ARTICLE 3. FUNDING AND METHOD OF PAYMENT AND PROVISIONS RELATING TO THE USE OF THE FUNDS

- 3.1 County agrees to reimburse Grantee for implementation of the Project in the maximum amount \$ _____. Grantee agrees to expend the funds allocated to the Project no later than the termination date established herein. All funds not expended within the term of this Agreement shall remain in the custody and control of County.
- 3.2 Grantee shall provide matching funds in a minimum amount equal to fifty percent (50%) the amount set forth in Section 3.1 in the form of: **[Check at least one]**

- Applicant cash: cash from Grantee's present resources such as savings or cash reserves.
- Contributions: public, private, or corporate contributions to be used towards the Project.
- In-kind: contributions in the form of goods and/or services directly benefitting the Project. In-kind contributions shall include, but are not limited to: dune plants, posts and ropes, irrigation, and labor, and community outreach.

3.3 Close-out Report. At the completion of the Project, Grantee shall provide the Contract Administrator with two (2) copies of a report demonstrating compliance with the approved Project plans which includes, but is not limited to:

- a) Color photographs of the dune planting area before and after area after completion of the Project, which includes plantings and the surrounding areas;
- b) A brief summary of the Project, including the number of people involved in implementing the Project;
- c) Receipts for items purchased and details of time and number of people involved;
- d) Request for the Contract Administrator to conduct an inspection; and
- e) Written approval of the inspection by the Contact Administrator.

3.4 Upon completion of the Project, Grantee shall invoice County as follows:

3.4.1 Grantee shall provide County with an executed original of any contracts or subcontracts authorizing the work to be done on the Project.

3.4.1.1 Any work or services subcontracted hereunder shall be specifically authorized by written contract, written agreement or purchase order and shall be subject to each provision of this Agreement. Proper documentation in accordance with county, state, and federal guidelines and regulations must be submitted to and approved by the Contract Administrator prior to the execution of any subcontract hereunder. In addition, all subcontracts shall be subject to federal, state, and county law and regulations.

3.4.1.2 None of the work or services, including but not limited to consultant work or services covered by this contract, shall be subcontracted or reimbursed without the prior written consent of the Contract Administrator.

3.4.2 Invoices shall be certified by the Grantee's authorized officer. Grantee shall not use these funds for any purpose other than the purpose set forth in this Agreement.

3.4.3 Request by Grantee for payment shall be accompanied by proper documentation. For purposes of this section, copies of invoices, receipts, evidence that the completed project has been inspected and approved by the Contract Administrator or other evidence of indebtedness shall be considered proper documentation. Invoices shall not be honored if received by County later than sixty (60) days after expiration or termination of this Agreement.

3.4.4 To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by County. Payment may be withheld for failure of Grantee to comply with a term, condition or requirement of this Agreement.

3.5 Upon Contract Administrator's receipt of Grantee's invoice for reimbursement, approval of Grantee's close-out report, and approval of the final inspection by the Contract Administrator verifying that the Project has been completed in accordance with the project description, the Department shall authorize payment to Grantee in the amount it determines, pursuant to the audit or financial statements, to be payable.

ARTICLE 4. FINANCIAL RESPONSIBILITY

4.1 Grantee hereby gives County, through any authorized representative, access to and the right to examine all records, books, papers, or documents relating to the Project.

4.2 Grantee hereby agrees that if it has caused any funds to be expended in violation of this Agreement, it shall be responsible to refund such monies in full to County.

4.3 The Close-out Report shall account for all monies received from County via explicit, discrete disclosures and/or accompanying notes to the Report.

4.4 Late submission of the Close-out Report, financial statement, or management letters shall result in suspension of payment under this Agreement until the required documentation is received and accepted by County. Grantee acknowledges that submission of the Close-out Report or financial statement to any other Broward County office, agency, or division does not constitute compliance with requirements to submit material to the Contract Administrator. Failure of the Grantee to meet these financial reporting requirements shall result in suspension of payment under this or any subsequent grant agreement in effect and disqualify the Grantee from obtaining future grant awards until such financial reports are received and accepted by County.

4.5 Any corrections to the financial statements requested by the County shall be made and submitted to the County within thirty (30) days after written request is received.

ARTICLE 5. TERM AND TIME OF PERFORMANCE

5.1 This Agreement shall be deemed to commence on [date] , and shall end on [date on year later] .

5.2 Grantee agrees to implement Project no later than [date] , which is one (1) year from the date Grantee received notification of approval of the Project. Under special, limited circumstances such as droughts, hurricanes, or other conditions beyond the control of and not attributable to the Grantee, the Contract Administrator may grant an extension of the one (1) year implementation requirement. It shall be Grantee's responsibility to notify County promptly in writing whenever a delay is anticipated or experienced, and to inform County of all facts and details related to the delay. Any time extension authorized by the Contract Administrator shall extend the dates in this section by an equal amount of time. Failure to complete the Project within one (1) year from notification of approval or any extended time period as set forth herein may result in the forfeiture of the Coastal Dune Restoration Funds.

ARTICLE 6. TERMINATION

6.1 This Agreement may be terminated for cause by action of the Board or by Grantee upon thirty (30) days written notice by the party that elected to terminate. Additionally, this Agreement may be terminated for convenience by action of the Board upon not less than ten (10) days written notice by the Contract Administrator. Contract Administrator may terminate this Agreement upon such notice, as the Contract Administrator deems appropriate under the circumstances, in the event the Contract Administrator determines that termination is necessary to protect the public health, safety, or welfare.

6.2 Notice of termination shall be provided in accordance with "Notices" section of this Agreement; except that notice of termination deemed by the Contract Administrator necessary to protect the public health, safety, or welfare may be verbal and promptly confirmed in writing in accordance with the "Notices" section of this Agreement.

6.3 In the event this Agreement is terminated for convenience, Grantee shall be paid for any properly invoiced services performed up to the date this Agreement is terminated; however, upon being notified of County's election to terminate, Grantee shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Grantee acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by County, the adequacy of which is hereby acknowledged by Grantee, is given as specific consideration for County's right to terminate this Agreement for convenience.

6.4 County shall have the right to terminate this Agreement and demand refund of Program funds provided to Grantee for noncompliance with the terms and conditions of the Program guidelines. Failure to comply with these terms and conditions shall result in County declaring Grantee ineligible for further participation in the Program until such time as Grantee complies therewith.

6.5 In the event this Agreement is terminated, any compensation payable by County shall be withheld until all documents are provided to County pursuant to the "Ownership of Documents" section of this Agreement.

6.6 Notwithstanding the above, Grantee shall not be relieved of liability to County for damages sustained by County by virtue of any breach of this Agreement by Grantee, and County may withhold any payments to Grantee, for the purposes of setoff until such time as the exact amount of damages is determined.

6.7 All requests for an amendment to this Agreement must be submitted in writing to the Contract Administrator no less than ninety (90) days prior to the termination date of the Agreement.

ARTICLE 7. MISCELLANEOUS

7.1 Nondiscrimination, Equal Employment Opportunity, and Americans with Disabilities Act. Grantee shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Grantee shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by County, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Grantee shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility. Grantee's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery. Grantee shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 ½) in performing any services pursuant to this Agreement.

7.2 Independent Contractor. Grantee is an independent contractor under this Agreement. Services provided by Grantee shall be performed by employees of Grantee and subject to supervision by Grantee, and shall not be deemed officers, employees, or agents of County. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of Grantee, which policies of Grantee shall not conflict with County, or State of Florida policies, rules or regulations relating to the use of the funds provided for under this Agreement.

7.3 Notice. Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

NOTICE TO COUNTY:

Jennifer Jurado
Environmental Planning and Community Resilience Division
115 S. Andrews Avenue, Room 329H
Fort Lauderdale, Florida 33301
Email Address: JJURADO@broward.org

NOTICE TO GRANTEE:

Email address: _____

7.4 Prior Agreements Superseded. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

7.5 Amendments. County may, in its discretion, amend this Agreement to conform to changes in federal, state, local, and/or County directives and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Board of County Commissioners, except as set forth herein. Except for the provisions as set forth herein, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.6 Assignment and Performance. Except for subcontracting approved in writing by County at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Grantee without the prior written consent of County. If Grantee violates this provision, County shall have the right to immediately terminate this Agreement. Grantee represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render

services. Grantee agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

7.7 Ownership of Documents. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of County, and, if a copyright is claimed, Grantee grants to County a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Grantee, whether finished or unfinished, shall become the property of County, and shall be delivered by Grantee to Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to Grantee shall be withheld until all documents are received as provided herein.

7.8 Conflict of Interest. Grantee covenants that no person who presently exercises any functions or responsibilities in connection with the Project has any personal financial interest in the Project and shall not have such an interest for one (1) year thereafter. Any possible conflicting interest on the part of Grantee, its employees, or agents, shall be disclosed in writing to the Contract Administrator. It shall not be deemed a conflict as long as all purchasing for consumables, capital equipment, and services are obtained in conformance with Article 3. However, this paragraph shall be interpreted in such a manner so as not to unreasonably impede the Program goal that maximum opportunity is provided for funding of Projects in communities.

Neither Grantee nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Grantee's loyal and conscientious exercise of judgment related to its performance under this Agreement. Grantee agrees that none of its employees shall, during the term of this Agreement, serve as an adverse or hostile witness against County in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her opinion, which is adverse or prejudicial to the interests of County in any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding regarding this Agreement. In the event Grantee is permitted to utilize subcontractors to perform any services required by this Agreement, Grantee agrees to prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.

7.9 Third Party Beneficiaries. Neither Grantee nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

7.10 Joint Preparation. County and Grantee acknowledge that this Agreement has been jointly prepared and shall not be construed more strictly against either County and Grantee.

7.11 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 of this Agreement shall prevail and be given effect.

7.12 Further Assurance. Grantee and County agree to execute, acknowledge, deliver, and cause to be done, executed, acknowledged, and delivered all such further documents and performs such acts as shall reasonably be requested of it to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

7.13 Compliance with Laws. Grantee shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.14 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

7.15 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

7.16 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District

of Florida. **BY ENTERING INTO THIS AGREEMENT, GRANTEE AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

7.17 Execution Authority. The individuals executing this Agreement on behalf of Grantee personally warrant that they have full authority to execute this Agreement on behalf of Grantee for whom they are acting herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have made and executed this Agreement on the respective dates under each signature: Broward County through its County Administrator authorized to execute same by resolution of the Board of County Commissioners, and _____, signing by and through its _____, duly authorized to execute same.

WITNESS:

(Signature)

(Print Name of Witness)

(Signature)

(Print Name of Witness)

BROWARD COUNTY, by and through
its County Administrator

By _____
Bertha Henry, Broward County Administrator

____ day of _____, 2015

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

Insurance requirements
approved by Broward County
Risk Management Division

By _____
Signature (Date)

By _____
Damaris Y. Henlon (Date)
Assistant County Attorney

Print Name and Title above

AGREEMENT BETWEEN BROWARD COUNTY AND _____ PROVIDING FOR FUNDING AND ADMINISTRATION OF BEACH SEGMENT III COASTAL DUNE RESTORATION GRANT PROGRAM

GRANTEE

WITNESSES:

Signature of Witness

By _____
(Signature)

Print Name of Witness above

(Print Name and Title of Signatory)

Signature of Witness

____ day of _____, 20__.

Print Name of Witness above

STATE OF FLORIDA)

) SS.

COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of _____. He or she is personally known to me or has produced _____ as identification and who did take an oath.

Notary Public, State of Florida
Commission No.: _____

My commission expires:

EXHIBIT A

PROJECT DESCRIPTION

Provide a detailed description of the services to be provided in implementation of the Project.

EXHIBIT B

BEACH SEGMENT III COASTAL DUNE RESTORATION GRANT PROGRAM
GENERAL OPERATING PROGRAM EVALUATION REPORT

This grant evaluation report must be filed with the Environmental Planning Community Resilience Division no later than 30 days after completion of the Project period.

Organization:

Mailing address:

Project Director:

Title:

Fax:

Telephone:

Funding Award: \$ _____

Date Project began:

ended:

Date Project

1. GOODS AND SERVICES INFORMATION: list dates, location and title for all goods and services provided and installed by the organization during this Project period

Good or Service

Date

Cost

2. PERSONNEL

Number

Admini
strative

Other

Total

Full-time

Part-time

Volunteers

How many hours did volunteers contribute during the Project period?

Describe your method for tracking volunteer hours:

3. NARRATIVE OF PROJECT ACTIVITIES

In general, describe how the Living Shorelines Funds were used and their impact on the quality and scope of the organizations activities.

4. REQUIRED ATTACHMENTS

- Color photographs of the improved area after completion of the Project, which includes plantings and the surrounding areas, including required signage
- Receipts for items purchased and details of time and number of people involved, if labor is used as a match for Beach Segment III Coastal Dune Restoration Grant Program Funding.

CERTIFICATION: The undersigned certify that the information provided in this Project evaluation report is true and correct, and Broward County funds were expended solely for the purpose of the approved funding Project or activity.

Signature-Chief Executive Officer

Signature-Project Director

Typed name of CEO

name of Project Director Typed

Date
Date