

RESOLUTION NO. 18-04-32

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING AN AGREEMENT BETWEEN ISLAMORADA VILLAGE OF ISLANDS AND FLORIDA INTERNATIONAL UNIVERSITY PROVIDING FOR WATER QUALITY TESTING; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Islamorada, Village of Islands (the “Village”) is a member of the Florida Keys National Marine Sanctuary Water Quality Protection Program Canal Restoration Advisory Subcommittee (the “Subcommittee”) established to address impaired water quality conditions; and

WHEREAS, the Village has sixty-two (62) canals listed within the Monroe County Canal Management Master Plan (CMMP) to address impaired water quality conditions; and

WHEREAS, on November 14, 2013, the Village Council adopted Resolution No. 13-11-85, thereby approving ten (10) demonstration canal projects in rank order by technology group based on the evaluation process of the Water Quality Protection Program Subcommittee on Canal Restoration; and

WHEREAS, at a meeting on May 28, 2015, the Water Quality Citizens Advisory Committee (the “Committee”) recommended a program of water quality testing to the Village Council of Islamorada, Village of Islands (the “Village Council”); and

WHEREAS, in 2015, Florida International University (“FIU”) was approached by the Committee and Village staff to perform the recommended water quality testing programs in canals within the Village; and

WHEREAS, on July 9, 2015, the Village Council directed the Village Manager to begin the recommended water quality testing as recommended by the Committee; and

WHEREAS, in October 2017, the Village was awarded grant funding from the Environmental Protection Agency (“EPA”) under EPA grant, MX 00D66617, Surveys-Studies-Investigation Agreement, ACH# 3020 in the amount of Fifty Thousand Dollars (\$50,000.00) to fund the benthic portion of water quality testing in six (6) additional canals within the Village; and

WHEREAS, Village staff has recommended that FIU perform the additional testing consistent with that water quality testing that it has already been performing on behalf of the Village; and

WHEREAS, FIU and the Village desire to enter into the agreement attached hereto as Exhibit “A” whereby FIU will provide such testing on behalf of the Village; and

WHEREAS, the Village Council finds that approval of the agreement between the Village and FIU, is in the best interest of the Village and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. **Approval of Agreement.** The Village Council hereby approves the agreement between the Village and FIU for water quality testing, attached hereto as Exhibit “A”, together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. **Authorization of Village Officials.** The Village Manager and/or his designee and the Village Attorney are hereby authorized to take all actions necessary to implement the terms and conditions of the agreements.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the agreements.

Section 5. Execution of Agreement. The Village Manager is authorized to execute the Agreement on behalf of the Village, to execute any other required agreement and/or documents to implement the terms and conditions of the Agreement, and to authorize any further acts necessary to implement the terms thereof, subject to approval as to form and legality by the Village Attorney.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion to adopt by Vice Mayor Deb Gillis, second by Councilwoman Cheryl Meads.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Chris Sante	YES
Vice Mayor Deb Gillis	YES
Councilman Mike Forster	YES
Councilwoman Cheryl Meads	YES
Councilman James Mooney	ABSENT

PASSED AND ADOPTED this 12th day of April, 2018.



CHRIS SANTE, MAYOR

Kelly S. Toth
KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS


ROGET V. BRYAN, VILLAGE ATTORNEY

AGREEMENT
BETWEEN
ISLAMORADA, VILLAGE OF ISLANDS
AND
THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES

This Agreement entered into between Islamorada, Village of Islands, a Florida municipal corporation (hereinafter "VILLAGE"), and The Florida International University Board of Trustees (hereinafter "FIU"), to conduct the work related to the project entitled "Water Quality Monitoring Program for the Village of Islamorada, Florida Keys" (hereinafter, the "Project"). VILLAGE and FIU shall hereinafter be referred to collectively as the "Parties".

WITNESSETH:

VILLAGE is in need of an independent contractor to provide and perform a water quality monitoring program related to the water quality testing project within Islamorada, Village of Islands; and

VILLAGE received a proposal from FIU to provide a water quality monitoring program within the VILLAGE, including gathering baseline data from canals and detecting changes in water quality; and

VILLAGE desires to engage and retain the services of FIU and FIU desires to accept such engagement.

NOW THEREFORE, in consideration of the foregoing and mutual promises, covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. TERM

This Agreement shall be effective retroactive to March 1, 2018 and shall terminate on September 30, 2020 ("Project Period").

II. PROJECT ADMINISTRATOR

All questions concerning administration of this Agreement should be addressed to:

FOR FIU:

Robert Gutierrez
Assistant VP of Research
Office of Research and Economic Development
Florida International University
MMC/MARC 430
11200 SW 8th St.
Miami, Florida 33199
Phone: (305) 348-2494
Fax: (305) 348-4117

FOR VILLAGE:

Seth Lawless
Village Manager
Islamorada, Village of Islands
Village Administrative Center & Public
Safety Headquarters
86800 Overseas Highway
Islamorada, Florida 33036
Phone: 305-664-6460

All questions regarding the technical aspects of the project should be addressed to:

III. PROJECT DIRECTOR

FOR FIU:

James W. Fourqurian
Southeast Environmental Research Center
& Department of Biological Sciences
Florida International University
11200 SW 8th Street, VH 310
Miami, FL 33199
Highway Phone: 305-348-4084

FOR VILLAGE:

Seth Lawless
Village Manager
Islamorada, Village of Islands
Village Administrative Center & Public
Safety Headquarters
86800 Overseas
Phone: 305-664-6460
seth.lawless@islamorada.fl.us

IV. STATEMENT OF WORK

Specific Responsibilities of FIU will be found in the attached Statement of Work (Appendix A hereto).

V. COMPENSATION

VILLAGE hereby agrees to compensate FIU for the faithful performance of this Agreement, for work completed in accordance with the Statement of Work attached hereto as Appendix "A", and as directed by VILLAGE. Compensation for testing completed by the FIU shall be as set forth herein and reflected in Appendix "A" attached hereto and made a part hereof.

Funds provided for FIU's involvement in this project for year 1 shall be the fixed price amount of Forty-Nine Thousand Five Hundred Dollars (\$49,500.00). The amount shall be payable to FIU and FIU shall invoice Sponsor.

Payment shall be made by Village via wire (electronic funds) transfer to: Bank of America, ABA#063100277, Account# 001595614027.

Should Village fail to timely make any of the payments set forth above, FIU shall have no further obligation to continue performance of this Agreement.

VI. RECORDS AND TECHNICAL REPORTS

- A. FIU shall maintain clear and accurate records of the work conducted throughout the project period so that Village Project Director may readily evaluate the progress of the study at any time. Reports, surveys, plans, studies and other data provided in connection with this Agreement shall be the property of VILLAGE. VILLAGE hereby grants FIU a non- exclusive, royalty-free license to such reports, surveys, studies and other data for the non- commercial, research, education and scholarly purposes of FIU, its faculty and students.
- B. FIU shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to personnel hours or percentage of effort charged to this engagement, and any expenses for which FIU expects to be reimbursed, if applicable. Such books and records will be available at all reasonable times for examination and audit by VILLAGE and shall

be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by VILLAGE of any fees or expenses based upon such entries.

C. VILLAGE is a public agency subject to Chapter 119, Florida Statutes. To the extent that FIU is acting on behalf of VILLAGE pursuant to Section 119.0701, Florida Statutes, FIU shall:

1. Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by VILLAGE were VILLAGE performing the services under this agreement;
2. Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
3. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
4. Meet all requirements for retaining public records and make public records available as required by Chapter 119 of the Florida Statutes. If FIU receives a public records request relating to this Agreement, FIU shall notify the VILLAGE of the same.

VII. INDEPENDENT CONTRACTOR

The officers, employees and agents of each party shall not be considered the officers, employees or agents of the other party for purposes of accomplishing the work to be performed under this Agreement or for any other purpose. Nothing in this Agreement shall create any association, partnership or joint venture between the parties or any employer-employee relationships. Nothing in this agreement shall be deemed to affect the rights, privileges and immunities afforded by law to FIU, the Florida Board of Governors and the State of Florida and their respective trustees, officers, employees and agents.

VIII. INTELLECTUAL PROPERTY

Inventions made solely by FIU faculty, students and staff under this Agreement will be solely owned by FIU. Inventions made jointly by FIU and VILLAGE will be owned jointly by VILLAGE and FIU, who agree to jointly determine patent filing and licensing subject to existing patent law. Inventions made solely by VILLAGE will be solely owned by VILLAGE. This understanding is subject to the rights of the U.S. Government, if any.

IX. PUBLICATION

Nothing contained in this Agreement shall preclude FIU or its employees or students from publishing and copyrighting scholarly articles, abstracts, these and similar documents or presentations concerning the work conducted under this Agreement.

X. TERMINATION

A. Termination at Will:

This agreement may be terminated by either party hereto by written notice to the other party of such intent to terminate at least thirty (30) days prior to the effective date of such termination.

B. Termination for Breach.

Each Party by written notice to the other Party may terminate this Agreement for the other Party's breach of a material term of this Agreement. Termination shall be upon no less than twenty-four (24) hours written notice.

C. Non-Waiver/Notices:

Failure by either Party to insist upon strict performance of any of the provisions of this Agreement, or either Party's failure or delay in exercising any rights or remedies provided herein or by law, shall not be deemed a waiver of any rights of either Party to insist upon strict performance hereof or of any of either Party's rights or remedies under this contract or law, and shall not operate as a waiver of any of the provisions hereof or as a modification of the terms of the Agreement.

Any notice required by this Agreement shall be delivered by Certified Mail, return receipt requested, by facsimile transmission, overnight delivery service or in person.

D. Termination Arrangements:

After receipt of a notice of termination and except as otherwise directed by VILLAGE, FIU shall:

1. Stop work under the Agreement on the date, and to the extent specified in the notice of termination.
2. Place no further orders or Agreements for materials, services, or facilities, except as may be necessary for completion of such portion of work under the Agreement as is not terminated.
3. Terminate all orders and Agreements to the extent that they relate to the performance of work which was terminated.
4. Handle all Village property as directed by VILLAGE.
5. Prepare all necessary reports and documents required under the terms of the Agreement up to the date of termination.

Regardless of reasons for the termination, VILLAGE shall compensate FIU for actual costs incurred up to the time of termination including for all non-cancelable commitments entered into by FIU in furtherance of this Agreement up to the effective date of the termination.

XI. MODIFICATION

This Agreement may only be changed or modified by an amendment executed by the Parties in the same fashion as the original.

XII. APPLICABLE LAW

The Parties' rights, obligations and remedies under this Agreement shall be interpreted and governed in all respects by the laws of the State of Florida. The Parties consent to the sole and exclusive jurisdiction of the courts of the State of Florida in connection with any dispute arising out of this Agreement and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in Monroe County, State of Florida.

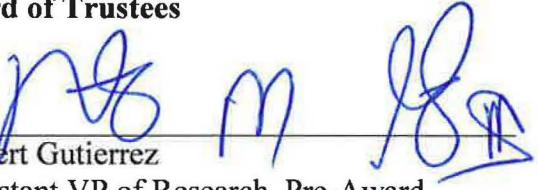
XIII. COMPLETE AGREEMENT

This Agreement is intended as the complete and exclusive statement of the agreement between the Parties. Parole or extrinsic evidence shall not be used to vary or contradict the express terms of this Agreement, and recourse may not be had to alleged dealings, usage of trade, course of dealing, or course of performance to explain or supplement the express terms of this Agreement.

All appendices to this Agreement are incorporated as if set out fully herein. In the event of any inconsistency(ies) or conflict(s) between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling but only to the extent of such conflict(s) or inconsistency(ies).

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective duly authorized officers.

**The Florida International University
Board of Trustees**

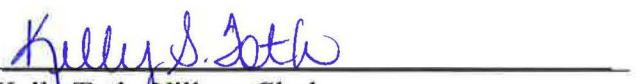

Robert Gutierrez
Assistant VP of Research, Pre-Award
Office of Research and Economic
Development
Florida International University
Date: 4/20/18

Islamorada, Village of Islands


Name: Seth Lawless
Title: Village Manager
Islamorada, Village of Islands

Date: April 16, 2018

ATTEST:


Kelly Toth, Village Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ONLY


Roget V. Bryan, Village Attorney

**Baseline monitoring of canals in the Florida Keys, focusing on canals in the
Village of Islamorada**

Revised Statement of Work

February 19, 2018

James W. Fourqurean

Florida International University

In an effort to monitor the state of health of the canals in the Village of Islamorada, an assessment of the species composition, abundance, and chemical composition of the dominant plants and the relative abundance of sessile animals and fish will continue in 10 canals in the Village, and for context, in 6 more canals that have been monitored since 2014 (see table).

Canals to be monitored in this revised statement of work:

Canal #	Location	Comments
114	Islamorada	
118	Islamorada	
120	Islamorada	
132	Islamorada	Control canal for #137
137	Islamorada	Experimental remediation – weed barrier
145	Islamorada	
147	Islamorada	Control canal for #148
148	Islamorada	Experimental remediation – weed barrier
150	Islamorada	
152	Islamorada	
28	Key Largo	Control canal for #29
29	Key Largo	Experimental remediation - backfilling
263	Lower Keys	Control canal for #266
266	Lower Keys	Experimental remediation – organic matter removal and weed barrier
472	Lower Keys	Experimental remediation – culvert installation
476	Lower Keys	Control canal for #472

In continuing these assessments, we will follow the protocols employed by the Seagrass Monitoring Component of the Water Quality Protection Program (WQPP) of the Florida Keys National Marine Sanctuary and the Canal Restoration assessment program also funded by the WQPP. By doing so we guarantee that this new information can be interpreted in the broad context of the greater Florida Keys environment.

We will monitor canals that are representative of the housing canals in the Village, with three canals on the ocean side and three on the bayside of the Florida Keys. In each canal, we will sample the cover and abundance of conspicuous bottom-dwelling plants and animals at a set of stations at fixed distances seaward of the mouth of the canal (0m, 10m, 25m, 50m, 100m and 250m) as well as at 10 points

between the mouth and the head of the canal at randomly-selected locations (Figure 1). We will also sample the cover and abundance of organisms attached to the walls of the canal at both the canal mouth and the head of the canal, and we will conduct fish surveys along the length of the canal. We will sample 3 locations at each target point: at the shoreward extent of marine plant communities. At each bottom-sampling location, we will drop a 0.5 m² quadrat. All conspicuous benthic taxa will be identified in each quadrat, and each taxon will be scored based on cover and abundance using the modified Braun Blanquet scale employed in the Seagrass component of the WQPP (Fourqurean and Rutten, 2003). Using a similar technique, we will randomly place 10 10cm x 10cm quadrats along a 10m transect on the canal walls and assess cover and abundance of all taxa growing on the walls.

In addition, small issue samples of the dominant benthic plants will be collected for analysis of nutrient content and stable isotopes of carbon and nitrogen. Three samples of each species will be collected at each location in each site. Elemental content servers as an indicator of the relative availability of light and nutrients for the benthic plants. Stable carbon isotopes provide a record of light availability to the plants (Campbell and Fourqurean, 2009), and stable nitrogen isotopes record information about the source of nitrogen for these plants (Fourqurean et al., 2005).

We will complete these observations on a 10-day field campaign conducted 2 times each year, scheduled to correspond to wet and dry seasons.

Budget justification:

Wages, salaries and Fringe: We have included salary to cover the time of the necessary 3-person field crew and the laboratory staff for the field collection and sample analysis. This includes funding for 40 days of a graduate student's time, 40 days of a junior lab tech, and 10% of the annual year effort of a senior lab manager. Additionally, we have included salary for the PI at 1% of his FTE to cover project oversight, data analysis and report writing.

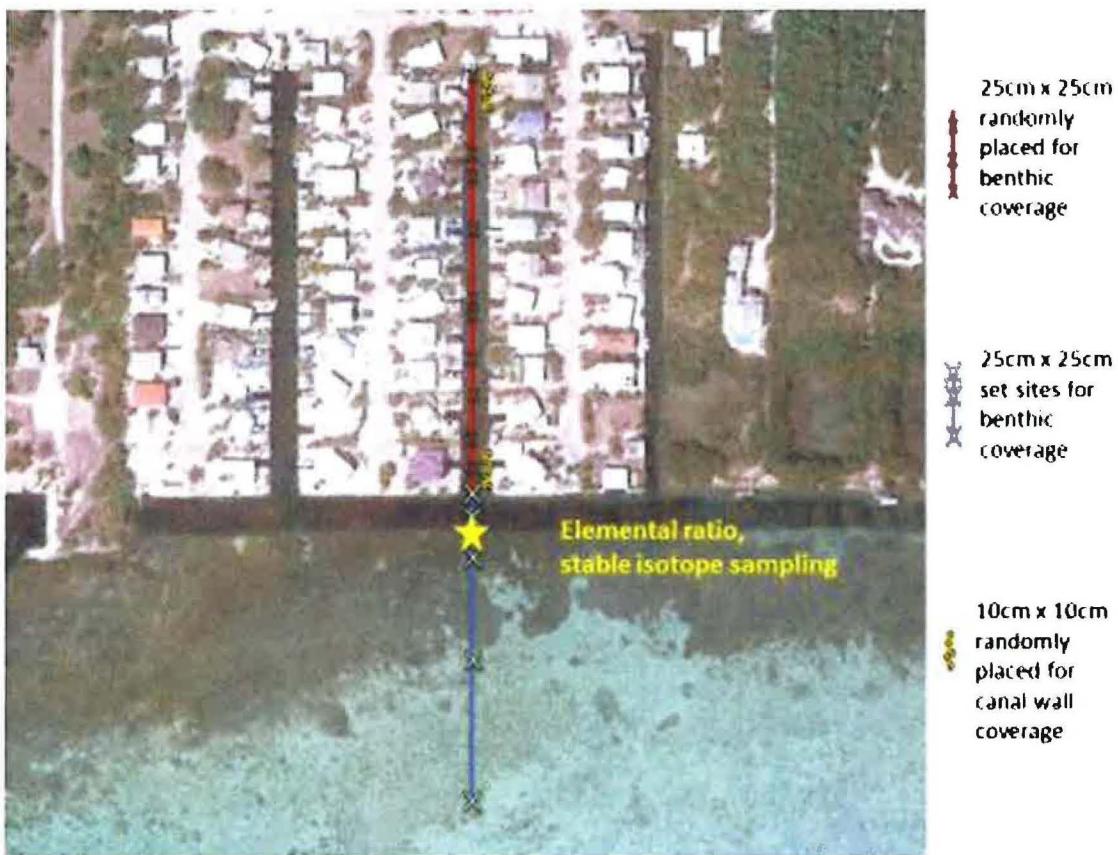
Fringe benefits were calculated at 33.22% for the PI, 46.23% for the lab manager, 5.82% for the graduate student and 0.04% for the junior technician, following FIU guidelines.

Travel: we budgeted \$5,594.00 dollars for travel which includes round trip mileage from Miami, Lodging for the field crew, and per diem meals.

Expenses: We budgeted \$275/day for vessel use for 16 days, \$450.00 for motor fuel for the boat, and \$120/day for 16 days for truck rental. We budgeted for 192 elemental analyses at \$10/sample, and 80 stable isotope analyses at \$20/sample. We budgeted \$175 for miscellaneous field supplies like sampling bags, coring tubes, etc.

Indirect costs: calculated at 46.5% of total direct costs.

These expenses total \$33,754.00 in direct charges, \$15,696.00 in indirect charges, for a total yearly cost of \$49,500.00.



References Cited

Campbell, J. E., and Fourqurean, J. W.: Interspecific variation in the elemental and stable isotopic content of seagrasses in South Florida, *Mar. Ecol. Prog. Ser.*, 387, 109-123, 2009.

Fourqurean, J. W., and Rutten, L. M.: Competing goals of spatial and temporal resolution: monitoring seagrass communities on a regional scale, in: *Monitoring ecosystem initiatives: interdisciplinary approaches for evaluating ecoregional initiatives*, edited by: Busch, D. E., and Trexler, J. C., Island Press, Washington, D. C., 257-288, 2003.

Fourqurean, J. W., Escencia, S. P., Anderson, W. T., and Zieman, J. C.: Spatial and seasonal variability in elemental content, $\delta^{13}\text{C}$, and $\delta^{15}\text{N}$ of *Thalassia testudinum* from south Florida and its implications for ecosystem studies, *Estuaries*, 28, 447-461, 2005.