

FUNDING AGREEMENT BETWEEN
THE TAMPA BAY ESTUARY PROGRAM
AND
PINELLAS COUNTY
FOR
HARD BOTTOM MAPPING AND CHARACTERIZATION
WITHIN THE TAMPA BAY WATERSHED

THIS AGREEMENT is entered into this ____ day of _____, 2017, by Pinellas County, a political subdivision of the State of Florida (“County”), and the Tampa Bay Estuary Program, a special district of the State of Florida (“TBEP”) (this “Agreement”).

W I T N E S S E T H:

WHEREAS, County received funds through a settlement with parties responsible for the Deepwater Horizon accident which affected the Gulf of Mexico and communities in the region including Pinellas County;

WHEREAS, County has identified and approved projects intended to benefit the public or that serve a public benefit that the Pinellas County Board of County Commissioners intends to be enhanced with funding from the aforementioned settlement;

WHEREAS, on December 13, 2016, the Pinellas County Board of County Commissioners approved a resolution delegating to the County Administrator the authority to enter into agreements with entities necessary to effectuate the approved projects within the amounts approved by the Pinellas County Board of County Commissioners for each project; and

WHEREAS, TBEP is one of the entities necessary to effectuate the “Tampa Bay Estuary Program” Project approved by the Pinellas County Board of County Commissioners, which proposes to map and characterize hard bottoms within areas of the Pinellas County Aquatic Preserve (the “Project”).

NOW THEREFORE, in consideration of the mutual terms, covenants, representations, and conditions herein contained, the parties agree as follows:

1. Performance of Services:

TBEP shall perform all services defined under the “Project Scope of Services,” which is attached hereto and incorporated herein as Exhibit A below, and comply with the terms and conditions therein. TBEP shall be responsible for the professional quality; technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by TBEP under this Agreement. TBEP shall orally consult with County regarding the Project on a monthly basis or at any time upon County’s request.

In accordance with the Project Scope of Services, TBEP shall submit two (2) Semi-Annual Progress Reports to County for Fiscal Year 2016-2017 by March 31, 2017, and

September 30, 2017, respectively, and two (2) Semi-Annual Progress Reports to County for Fiscal Year 2017-2018 by March 31, 2018, and September 30, 2018, respectively. Further in accordance with the Project Scope of Services, the Semi-Annual Progress Report due by September 30, 2018 shall be submitted together with the Final Project Report.

If County finds any Semi-Annual Progress Report or the Final Project Report unacceptable for any reason, County shall provide written notice to TBEP of any defects. If County provides a written notice of defects, TBEP shall have thirty (30) days from receipt of said notice to cure said defects and provide written evidence of same to County; if TBEP fails to cure the defects within the requisite timeframe, or if County finds the evidence of such corrections to be defective for any reason, this Agreement is subject to termination with cause in accordance with Section Four (4) below.

2. Funding:

County agrees to provide up to \$100,000.00 for completion of the Project in accordance with the following:

TBEP shall submit an invoice to County upon completion of each of the six (6) Project Tasks defined under the Project Scope of Services ("Invoice"). Together with each Invoice, TBEP shall submit the following accompanying records: (1) a certification that the Invoice is accurate and that TBEP has expended all invoiced funds in furtherance of the Project ("Certification"); (2) a task completion report detailing how funds from any and all sources have been and/or will be expended in furtherance of the Project ("Task Completion Report"); and (3) any newly completed deliverables as defined under the Project Scope of Services ("Deliverables"). Certifications shall consist of appropriate language composed by TBEP; the requisite composition of Task Completion Reports and Deliverables are expounded upon in the Project Scope of Services.

Within thirty (30) days of receiving an Invoice, County shall either: (1) provide full payment to TBEP for that Invoice; or (2) if County finds the Invoice, Certification, Task Completion Report, or Deliverables unacceptable for any reason, provide written notice to TBEP of any defects. If County provides a written notice of defects, TBEP shall have thirty (30) days from receipt of said notice to cure said defects and provide written evidence of same to County; if TBEP fails to cure the defects within the requisite timeframe, or if County finds the evidence of such corrections to be defective for any reason, this Agreement is subject to termination with cause in accordance with Section Four (4) below.

3. Agreement Term:

This Agreement shall become effective upon execution by both parties and expire on December 31, 2018, unless terminated earlier as provided in Section Four (4) below.

4. Termination:

This Agreement may be terminated in writing by either party: (1) without cause upon

fifteen (15) days of receipt of notice of termination by the other party; or (2) with cause immediately upon receipt of a notice of termination by the other party. If County terminates the Agreement with cause, TBEP shall, within seven (7) days of receipt of such notice, refund to County all funding awarded to TBEP by County under this Agreement.

In accordance with Section Five (5) below, any termination notice shall be sent by e-mail or USPS Certified Mail and deemed delivered or received on the date reflected by the e-mail read receipt or certified mail delivery receipt.

This Agreement may also be terminated at any time by mutual written agreement of the parties.

5. Project Managers and Notice:

In order to assure proper coordination and review throughout the term of this Agreement, TBEP and County each designate a "Project Manager" as follows:

TBEP
Ed Sherwood, Senior Scientist
Tampa Bay Estuary Program
263 - 13th Avenue South, Suite 350
St. Petersburg, FL 33701
esherwood@tbep.org

COUNTY
Kelli Levy, Division Director
Pinellas County Environmental Management
22211 US Hwy 19 N, Bldg. 10
Clearwater, FL 33765
klevy@pinellascounty.org

The Project Managers shall be responsible for transmitting and receiving all communications concerning this Agreement to the other party. All notices, invoices, approvals, and other correspondence required by law and this Agreement shall be in writing and delivered via e-mail or USPS Certified Mail to the respective Project Manager. Notice shall be considered delivered or received as reflected by an e-mail read receipt or a certified mail delivery receipt.

6. Payment Limitations and Fiscal Non-Funding:

Project costs incurred prior to the effective date of this Agreement are not fundable under this Agreement.

County shall not be responsible for the operation, maintenance, or capital refreshment of any assets resulting in any way from the Project, including but not limited to any and all Deliverables.

This Agreement is not a general obligation of County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of this Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by County, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by County for any or all of this Agreement, County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. County agrees to promptly notify TBEP in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to County.

7. Records and Audit:

TBEP agrees:

a) To retain all data, financial records, statistical records, and any other records (including electronic storage media) pertinent to this Agreement (“Records”) for a period of three (3) years after termination or expiration of this Agreement or, if an audit has been initiated in accordance with subsection c) of this Section Seven (7) below and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings.

b) To maintain all Records in accordance with generally accepted accounting procedures and practices that sufficiently and properly reflect all revenues and expenditures of funds provided by County under this Agreement.

c) To assure that all Records are subject at all reasonable times for inspection, review, audit, copy, or removal from premises by County personnel and other personnel duly authorized by County.

d) To fully comply with the provisions of Chapter 119, Florida Statutes, as applicable.

e) To include all requirements in this Section Seven (7) in all approved contracts and subcontracts under this Agreement.

8. Indemnification and Non-Agency Relationship:

To the greatest extent under applicable law, TBEP agrees to indemnify and defend County, its officers, and employees, against all claims of any nature arising out of the Project. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by either party to be sued by third parties in any manner arising out this Agreement or contracts related thereto.

TBEP acknowledges that is an independent party and not an agent of County.

9. Modification of Agreement:

This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

10. Assignment:

This Agreement may not be assigned by either party without the prior written consent of the other party. The parties each bind itself, its successors, assigns, and legal representatives to the other party hereto and to the successors, assigns, and legal representatives of such other party in respect to all covenants and obligations contained herein.

11. Contractors:

Before any contractor or subcontractor, including any contractor or subcontractor identified in the Project Scope of Services, begins any work under this Agreement, the County must provide prior written consent to TBEP.

12. Compliance with Applicable Laws:

TBEP shall ensure that at all times and in all aspects of the Project, TBEP, its employees, agents, and contactors are in compliance with all applicable Federal, state, and local laws.

13. Governing Laws:

This Agreement and the rights and obligations of the parties hereto shall be governed and construed according to the laws of the State of Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed, as of the day and year first above-mentioned.

PINELLAS COUNTY, FLORIDA

BY: _____
Mark. S. Woodard, County Administrator

Approved as to Form:

BY: _____
Assistant County Attorney

TAMPA BAY ESTUARY PROGRAM

BY: Holly Greening
Holly Greening, Executive Director

ATTEST: Ronald A. Hosler

EXHIBIT A
PROJECT SCOPE OF SERVICES
Hard Bottom Mapping and Characterization
within the Tampa Bay Watershed

PROJECT SUMMARY:

TBEP, in partnership with the Southwest Florida Water Management District (SWFWMD), has initiated research to identify important hard and live bottom habitats within Tampa Bay. Tampa Bay hard and live bottom habitats represent unique and diverse biological communities and often times provide vital habitat for commercially and recreationally important fisheries (e.g. sheepshead, snook, snappers, groupers, etc.). Recent information garnered from Tampa Bay Habitat Restoration Partnership Working Group meetings has indicated that hard and live bottom habitats most likely occur within the Pinellas County Aquatic Preserve, particularly in Middle to Lower Tampa Bay and Boca Ciega Bay. Therefore, the understanding of the distribution of these habitats within Tampa Bay is paramount to develop future habitat protection and restoration strategies. To date, pilot mapping efforts have been conducted in the Hillsborough and Manatee County portions of (southeastern) Tampa Bay.

The main goal of the Project will be for TBEP to develop hard and live bottom habitat maps within a preliminarily identified screening area within the Pinellas County Aquatic Preserve. TBEP will build upon an ongoing SWFWMD-led effort and lessons-learned from their project to develop hard and live bottom maps utilizing side scan sonar, sub-bottom profiling and video captures within Pinellas County waters. The initial screening area for developing maps is approximately 56.3 mi² (Figure 1). Once the maps are developed, future protection (and possibly restoration) strategies will be developed for Pinellas County hard and live bottom habitats, as part of the TBEP's Habitat Master Plan Update (2017-18).

The Project will create a final hard bottom GIS marine resource map in select areas identified within the 56.3 mi² screening area in southwestern Tampa Bay, from the Gandy to Skyway Bridges. The data collection and mapping elements will be completed by a contractor procured by the TBEP ("Contractor"). Findings from the Project will be used to refine protection and restoration targets for these habitats. Results will be documented in final Project reports, GIS Deliverables, and the 2017 Habitat Master Plan Update. All products will be further vetted through the Hard Bottom Working Group, Southwest Florida Seagrass Working Group, TBEP Dredging Advisory Group, and/or TBEP Technical Advisory Committee with additional direct input garnered from County.

DELIVERABLES:

- Semi-Annual Progress Reports (due by March 31, 2017 and September 30, 2017 for Fiscal Year 2016-2017, and March 31, 2018 and September 30, 2018 for Fiscal Year 2017-2018)
- Task Completion Reports, with Invoices as defined below
- Final Project Report summarizing work completed (due with final Semi-Annual Progress Report by September 30, 2018)
- Hydrographic data in a georeferenced raster file format
- 2017 Southwestern Tampa Bay Hard Bottom Map in a GIS (ESRI shapefile) format
- 2017 Southwestern Tampa Bay Hard Bottom Map associated metadata

TOTAL BUDGET: \$100,000.00

TASK DESCRIPTIONS:

TASK 1. Contractor Procurement

TBEP will develop and advertise a request for proposals (RFP) to secure Contractor to complete the overall mapping Project according to the best practices identified through a similar SWFWMD-led effort. TBEP will utilize its existing management framework to formally select Contractor from the RFP respondents, and initiate a formal Project agreement with Contractor that details the overall scope and scale of anticipated map products within the preliminarily identified screening area (Figure 1).

TASK 2. Project Development Plan

TBEP will develop a Project plan that will detail data collection, mapping and GIS elements of the Project. A final Project plan will be submitted for County approval and serve as the basis for the study. The plan will include, but not be limited to:

- a) Bathymetry data collection methodology.
- b) Bathymetry data collection site selection. Select sites will be jointly determined by TBEP and Pinellas County staff with input from TBEP's working groups and subcommittees.
- c) GIS habitat mapping methodology.
- d) GIS Deliverable format.

TASK 3. In-Situ Bathymetry Data Collection

Contractor will be tasked with in-situ data collection within the screening area identified in Figure 1. The methods to be employed for hard and live bottom data collection will include, but not be limited to:

- a) Side scan sonar: to document spatial extent of benthic topography;
- b) Sub-bottom profiling: to identify depth of consolidated and unconsolidated sediments, and;
- c) Underwater video for additional characterization of identified bottom signatures.

Data collected will be georeferenced via onboard GPS systems according to best practices identified through the SWFWMD-led effort. Contractor sonar and video data collection efforts have typically been limited to water depths greater than 4 foot due to vessel access issues. Additionally, the best practices determined from the SWFWMD-led project will guide data collection efforts in order to maximize the scope and scale of map products delineated within the screening area.

TASK 4. GIS Habitat Mapping

Contractor will be tasked with developing final, validated GIS Deliverables based on in-situ data collection efforts within the screening area, as follows:

- a) Contractor will post-process in-situ data to resolve hard and live bottom signatures within select sites within the screening area.
- b) Mapping of Project data will involve geospatial and descriptive interpretation and analysis. Classification of habitats in final map products will be conducted using National Oceanic and Atmospheric Administration's Coastal and Marine Ecological Classification Standard (CMECS) or equivalent.
- c) An accuracy assessment modeled after those completed under the SWFWMD-led effort will be completed.

TASK 5. Final Project Report & Map Deliverables

TBEP will coordinate the development of GIS Deliverables and a Final Project Report based on Contractor products developed in Tasks 3 & 4 above. The Final Project Report and Deliverables will be fully vetted through TBEP working group and committees with additional direct input garnered from County.

TASK 6. Pinellas County Hard and Live Bottom Protection (& Restoration) Target Development

TBEP will synthesize mapping results in its 2017 Habitat Master Plan Update (currently undergoing RFP reviews). The synthesis will include:

- a) A summary of the current areal extent of hard and live bottom habitats based on best available technology (e.g., aerial photography mapping and interpretation, as well as any products developed under this Project) within the major bay segments of Tampa Bay;
- b) Protection (and possibly restoration) targets for hard and live bottom habitats, based on feedback and input garnered from TBEP working groups and committees;
- c) Development of future management and restoration recommendations, incorporating resiliency to sea level rise, climate change and other perturbations.
- d) Identification of restoration activities (if appropriate) for hard and live bottom habitat long-term management within Tampa Bay.

PROJECT TIMELINE:

Task	Months Following Notice to Proceed																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
1	X	X	X															
2			X	X	X	X												
3						X	X	X	X	X	X							
4									X	X	X	X	X					
5													X	X	X	X		
6															X	X	X	X

PROJECT BUDGET:

Description	Pinellas County Share
Task 1: Contractor Procurement	\$2,500
Tasks 2 – 5: Project Plan, Data Collection, Map Creation, and Final Report Deliverables	\$95,000
Task 6: Target Development in HMPU	\$2,500

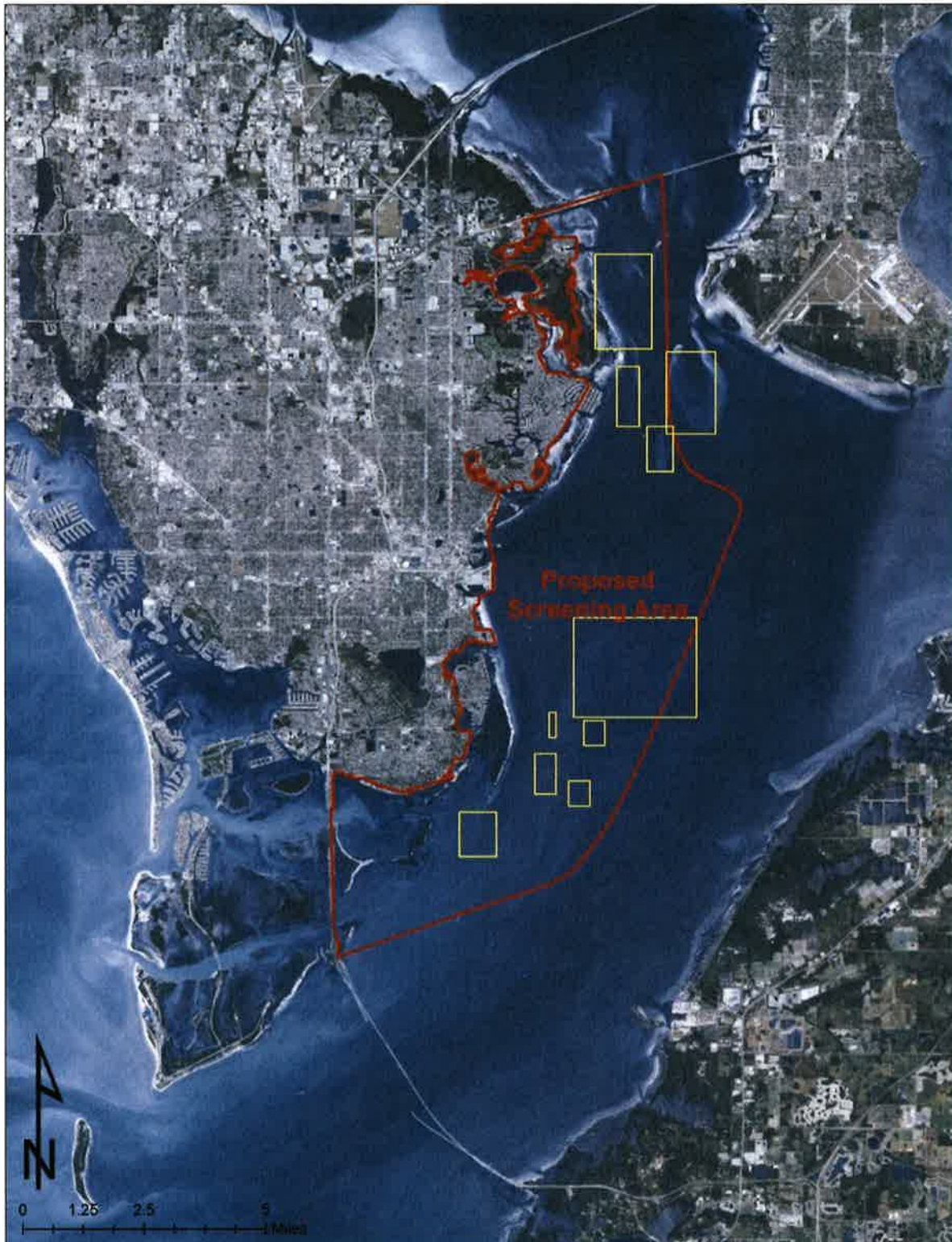


Figure 1: Approximate boundary of screening area within the Pinellas County Aquatic Preserve where additional hard and live bottom mapping will be performed. Yellow polygons represent preliminarily identified potential hard bottom areas based on previous SWFWMD-led project.