

**From:** [Florko, Catherine](#)  
**To:** [Mackesey, Brendan](#)  
**Cc:** [Holscher, Virginia](#); [Celeste, Merry E](#); [Bishop, John](#); [Buda, Rob](#)  
**Subject:** RE: Quick Requests re FDEP Sand Key Grant Agrmnt #17P12  
**Date:** Thursday, November 09, 2017 2:37:05 PM

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Hi Brendan,

Your understanding is correct. No indemnity provisions in the Agreement apply here.

I hope you have a great holiday weekend.

Catherine

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**From:** Mackesey, Brendan [mailto:[bmackesey@co.pinellas.fl.us](mailto:bmackesey@co.pinellas.fl.us)]  
**Sent:** Thursday, November 09, 2017 11:39 AM  
**To:** Florko, Catherine <[Catherine.Florko@dep.state.fl.us](mailto:Catherine.Florko@dep.state.fl.us)>  
**Cc:** Holscher, Virginia <[vholscher@co.pinellas.fl.us](mailto:vholscher@co.pinellas.fl.us)>; Celeste, Merry E <[mceleste@co.pinellas.fl.us](mailto:mceleste@co.pinellas.fl.us)>; Bishop, John <[jbishop@co.pinellas.fl.us](mailto:jbishop@co.pinellas.fl.us)>  
**Subject:** FW: Quick Requests re FDEP Sand Key Grant Agrmnt #17P12

Hi Catherine, thanks for your e-mail a moment ago (attached). It's much appreciated. Note that I have cc'd the County Coastal Coordinator, Contracts Manager, and Risk Manager, simply for reference. Two quick things:

- As a self-insured entity (at least for general liability purposes) not part of a Risk Pool, the County accepts FDEP's proposal to include the statement "Because the Grantee is self-insured, paragraph 8.c does not apply to this agreement," rather than striking paragraph 8.c as the County originally requested.
- Before the County can formally proceed with Agreement execution, however, pursuant to my e-mail below, *I would greatly appreciate if you could confirm via e-mail response that my understanding below is correct and no indemnity provisions in the Agreement apply here.* Jeff Cohn from your office (sp?), who I spoke to yesterday (very nice and helpful guy btw), confirmed this was the case and indicated an e-mail would be sent to the County relaying same. I've highlighted the language in red below.

Thanks so much again for your assistance, the County will have this Agreement executed at the next available Board of County Commissioners meeting once the indemnity point above is squared away. Please don't hesitate to call me with any questions/concerns.

**Brendan P. Mackesey**

Assistant County Attorney

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**From:** Mackesey, Brendan  
**Sent:** Monday, October 23, 2017 1:08 PM  
**To:** Bishop, John <[jbishop@co.pinellas.fl.us](mailto:jbishop@co.pinellas.fl.us)>  
**Subject:** Quick Requests re FDEP Sand Key Grant Agrmnt #17P12

To Whom it May Concerns:

The Pinellas County Attorney's Office is currently reviewing Grant Agreement # 17P12 between FDEP and the County for the Sand Key Segment of the Pinellas County Shore Protection Project. Section 18 of Attachment 1 of the Agreement requires that grantees indemnify FDEP under certain circumstances. This e-mail seeks confirmation that the indemnity provisions of subparagraphs 18(a) and 18(b) do not apply to the County and, as a governmental entity, paragraph 18(c) applies. **Phrased differently, the County seeks to confirm there is no indemnity/duty to defend/hold harmless provisions included in Attachment 1 of the Agreement that are applicable to this Agreement; indeed, as I read the language of 18(c) -- each party is simply responsible for its own negligence.** Attached for your reference is the Agreement as well as a County Resolution prohibiting County indemnification in most circumstances.

**Accordingly, the County respectfully requests that its understanding regarding indemnity recited in the first paragraph of this e-mail above be confirmed.**

Moreover, as I understand it, the County cannot list FDEP as additional insured. Indeed, subparagraph 12(c) of Attachment 1 of the Agreement recognizes that FDEP does not need to be listed as additional insured where the Grantee is self-insured. Significantly, however, subparagraph 12 also states that, “[a]dditional insurance requirements for this Agreement may be required elsewhere in this Agreement, however, the minimum insurance requirements are . . . .”

Accordingly, to remove ambiguity, the County also respectfully requests that subparagraph 8(c) of Attachment 2 of the Agreement be stricken in its entirety. 8(c) reads:

Special terms for Projects on State-Owned Land. “The Board of Trustees of the Internal Improvement Trust Fund must be listed as additional insured to general liability insurance required by the Agreement and, if the Grantee is a non-governmental entity, indemnified by the Grantee.”

Thank you very much your time and consideration. Please don't hesitate to contact me at the contact info in my signature block below with any questions.

Regards

Brendan P. Mackesey  
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