

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 07/07/2021

Contract/Lease Control #: C21-3090-TDD

Procurement#: SOLE SOURCE

Contract/Lease Type: AGREEMENT

Award To/Lessee: NUSHORE, LLC

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 07/06/2021

Expiration Date: 06/30/2022

Description of: INSTALLATION OF POROUS GROIN SYSTEM

Department: TDD

Department Monitor: ADAMS

Monitor's Telephone #: 850-609-5394

Monitor's FAX # or E-mail: JADAMS@MYOKALOOSA.COM

Closed:

Cc: BCC RECORDS

**PROCUREMENT/CONTRACT/LEASE
INTERNAL COORDINATION SHEET**

Procurement/Contract/Lease Number: TSD Tracking Number: 433921
Procurement/Contractor/Lessee Name: Nushone LLC Grant Funded: YES ___ NO X
Purpose: Beach Management
Date/Term: 6-30-2022
Department #: 1175
Account #: 563790
Amount: 972,688.20
Department: TDD Dept. Monitor Name: Adams

1. GREATER THAN \$100,000
2. GREATER THAN \$50,000
3. \$50,000 OR LESS

Purchasing Review

Procurement or Contract/Lease requirements are met:
[Signature] Date: 6-2-21
Purchasing Manager or designee Jeff Hyde, DeRita Mason, Jessica Darr, Angela Etheridge

2CFR Compliance Review (if required)

Approved as written: NO Federal Act Grant Name: _____
_____ Date: _____
Grants Coordinator

Risk Management Review

Approved as written: see mail attached Date: 6-3-21
_____ Lisa Price
Risk Manager or designee

County Attorney Review

Approved as written: see mail attached Date: 6-10-21
_____ Lynn Hoshihara, Kerry Parsons or Designee
County Attorney

Department Funding Review

Approved as written: _____ Date: _____

IT Review (if applicable)

Approved as written: _____ Date: _____

Revised September 22, 2020

(21-3098-6270)
Single source in folder

DeRita Mason

From: Kelly Bird
Sent: Thursday, June 3, 2021 10:30 AM
To: Craig Coffey; Alex Fogg; Lynn Hoshihara; Lynn Hoshihara NGN-Tally; DeRita Mason; Charlotte Dunworth
Subject: RE: Okaloosa NuShore Draft Agreement

The insurance requirements are adequate. I agree with Alex and Lynn, a performance bond needs to be required.

Best regards,

Kelly Bird
Risk Manager
Okaloosa County Board of County Commissioners
302 N. Wilson Street, Suite 301
Crestview, FL 32536
Phone-(850) 689-5978

For all things Wellness please visit:

<http://www.myokaloosa.com/wellness>

Please note: Due to Florida's very broad public records laws, most written communications to or from county employees regarding county business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: Craig Coffey <ccoffey@myokaloosa.com>
Sent: Wednesday, June 2, 2021 4:05 PM
To: Alex Fogg <afogg@myokaloosa.com>; Lynn Hoshihara <lhoshihara@myokaloosa.com>; Lynn Hoshihara NGN-Tally <lhoshihara@ngn-tally.com>; Kelly Bird <kbird@myokaloosa.com>; DeRita Mason <dmason@myokaloosa.com>; Charlotte Dunworth <cdunworth@myokaloosa.com>
Subject: FW: Okaloosa NuShore Draft Agreement

The total budget is \$1.4 Million --- \$1.1 Million this contract (including contingency) and a sand survey/project analysis with MRD for an estimated 300K. Craig

From: Craig Coffey
Sent: Wednesday, June 2, 2021 4:02 PM
To: Charles Benedict <CBenedict@becind.com>; 'Nicola Ianeselli' <nianeselli@nushore.com>
Cc: 'Andrew Ketchel' <Andrew@cccfla.com>
Subject: Okaloosa NuShore Draft Agreement

Good Afternoon,

DeRita Mason

From: Hoshihara, Lynn <lhoshihara@ngn-tally.com>
Sent: Thursday, June 10, 2021 1:15 PM
To: Craig Coffey
Cc: DeRita Mason
Subject: FW: Okaloosa Contract with NuShore
Attachments: Nushore Construction Agreement - Final.docx

This is approved as to legal sufficiency.

From: Craig Coffey <ccoffey@myokaloosa.com>
Sent: Thursday, June 10, 2021 1:46 PM
To: Hoshihara, Lynn <lhoshihara@ngn-tally.com>; Lynn Hoshihara <lhoshihara@myokaloosa.com>
Subject: FW: Okaloosa Contract with NuShore

From: Nicola Ianeselli <nianeselli@nushore.com>
Sent: Thursday, June 10, 2021 12:30 PM
To: Craig Coffey <ccoffey@myokaloosa.com>; Jennifer Simmons <jsimmons@nushore.com>; 'Andrew Ketchel' <Andrew@cccfla.com>
Cc: Charles Benedict <cbenedict@nushore.com>; Stephen Harrington <sharrington@nushore.com>; Lorie Heinz <lheinz@nushore.com>
Subject: RE: Okaloosa Contract with NuShore

This is the word version.

The only modifications were:

5. County Responsibilities:

- a. Perform any required non-drone bathymetric sand surveys for purposes of permitting, ongoing monitoring, closeout, and analysis of the project as required by permits or as agreed upon between the parties, whichever is greater. All raw survey data shall be promptly shared with the Contractor who has the right to use it.

Attachment B

Scope of work task includes but are not limited to:

Installation and Removal of the System

Maintenance and Repair of the System during up to a six-month deployment

Hiring any Sub-contractors

Hiring any temporary labor

Supplying, renting or purchasing any necessary equipment for the project

Perform bathymetric surveys using aerial drone, to be shared with the County for their use.

Best



**AGREEMENT BETWEEN OKALOOSA COUNTY, FLORIDA
AND NUSHORE, LLC**

(Contract # **C21-3090-TDD**)

THIS AGREEMENT (hereinafter referred to as the “Agreement”) is made this 6th day of July, 2021, by and between Okaloosa County, a political subdivision of the state of Florida, (hereinafter referred to as the “County”), with a mailing address of 1250 N. Eglin Parkway, Suite 100, Shalimar, Florida, 32579, and NuShore LLC, with a mailing address of 3660 Hartsfield Road, Tallahassee, FL 32303, authorized to do business in the State of Florida (hereinafter referred to as “Contractor”) whose Federal I.D. EIN# is 73-1729654. Collectively, the County and Contractor shall be referred to as the “Parties”

RECITALS

WHEREAS, the County consistently faces beach issues related to sand and the health of County Beaches countywide; and,

WHEREAS, Hurricane Sally and other tropical storm created severe impacts to Okaloosa’s County Beaches as determined in most recent post hurricane beach surveys and analysis performed by the County’s beach consultants; and,

WHEREAS, outside of large storms the County beaches have experienced steady erosion and net beach loss in many locations; and,

WHEREAS, the County has or is pursuing many traditional beach management approaches such as dredging the inlet, offshore dredging, sand fencing and dune vegetation plantings, a sand sediment study, and nationally designated projects with the U.S. Army Corps of Engineers; and,

WHEREAS, these traditional approaches may be costly, negatively impact native wildlife, require favorable weather condition for construction, occur during peak tourism periods, may be difficult to permit and contract, may not produce the sand quality desired by residents, and may require special property fee assessments, which many residents oppose; and,

WHEREAS, the Contractor’s NuShore System (the “System”), provides a unique product/process that otherwise avoids most of the problems associated with the traditional approaches described above; and,

WHEREAS, the Parties have worked closely together to clarify duties and to achieve a financial and operational balance in the approach to the projects; and,

WHEREAS, the Contractor has previously installed such System in numerous locations including Okaloosa and Walton Counties; and,

CONTRACT#: C21-3090-TDD
NUSHORE, LLC
INSTALLATION OF POROUS GROIN SYSTEM
EXPIRES: 06/30/2022



WHEREAS, the product and services specified herein are for the most part unique to a propriety system/product of a temporary porous groin system that no other vendor provides and therefore pursuant to the Okaloosa County Purchasing Manual, the County procured the Contractor through a sole source justification allowing these services and products to be secured through one vendor. A copy of the sole source procurement forms/justification is included as Attachment “D”; and

WHEREAS, Contractor is an insured entity with the necessary experience to provide the desired services and products listed herein; and

WHEREAS, the County wishes to enter into this Agreement with Contractor to provide the services and products to the County for an amount of not to exceed a Five Hundred and Ninety-Three thousand, Thirteen Dollars and 85 cents (\$593,013.85), plus the Contingency (as defined herein), as applicable as further detailed in Attachment “C”; and

WHEREAS, the County set aside a contingency amount for up to \$74,126.73, (the “Contingency”) for additional project expenses above projected estimates, which will adjust the total not-to-exceed amount for any contingency amounts that are approved.

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

1. Recitals and Attachments/Contract Documents. The Recitals set forth above are hereby incorporated into this Agreement and made part hereof for reference. The following documents are attached to this Agreement and are incorporated herein. In addition to this Agreement, the following documents comprise the entire Agreement between the County and Contractor:

- Attachment “A” – Project Areas/Locations, and Length
- Attachment “B” – Contractor Scope of Work
- Attachment “C” – Project Budgets
- Attachment “D” - Sole Source Procurement Form;
- Attachment “E” – Insurance Requirements;
- Attachment “F” – Title VI list of pertinent nondiscrimination acts and authorities;
- Attachment “G” – Scrutinized Companies Certification;

2. Scope of the Work -Material and Services. Contractor agrees to perform the following services listed herein and shall be fully responsible for a temporary, porous groin system at two locations in Okaloosa County (the “Project”). The locations and length of projects are shown in Attachment A. The Contractor shall provide the complete services and materials for the System on this Project, to include design, permitting, procurement, assembly, installation, monitoring, maintenance, adjustment, repair, removal, and permit closeout, less any owner responsibilities listed in Section 5 below.



The Services to be provided by the Contractor are further detailed in the Scope of Work in Attachment “B” and incorporated herein by reference. The Services shall be performed by the Contractor in accordance with this Agreement. Contractor agrees to have a qualified representative to audit and inspect the Services provided on a regular basis to ensure all Services are being performed in accordance with the County’s needs and pursuant to the terms of this Agreement and shall report to the County accordingly. Contractor agrees to immediately inform the County via telephone and in writing of any problems that could cause damage to the County. Contractor will require its employees to perform their work in a quality and workmanlike manner befitting the type and scope of work to be performed.

3. Term and Renewal. The term of this Agreement shall begin on the effective date of this agreement and shall continue until the removal and storage of the temporary porous groin system or upon satisfactory permitting closeout of the Project with outside regulatory agencies, whichever is later. Generally, this term is expected to be within 12 months or prior to June 30, 2022. The term may be adjusted as necessary, subject to the County’s ability to terminate in accordance with Section 8 of this Agreement. The terms of Section 21 entitled “Indemnification and Waiver of Liability” shall survive termination of this Agreement for a period of 12 months.

This Agreement may be renewed for up to two additional 12-month periods, subject to a new scope of work and compensation being approved for each subsequent renewal period, upon mutual written agreement of the parties.

4. Compensation. The Contractor agrees to provide the Material and Services to the County, including materials and labor, in a total amount not to exceed five hundred and ninety-three thousand, thirteen dollars and 85 cents (\$593,013.85) for all two project sections, not including any project contingency (\$74,126.73) or estimated contractor contributions (\$57,169.34).

- a. **Payment Process.** Invoices received from the Contractor pursuant to this Agreement will be reviewed by the initiating County Department. Invoices shall be dated, detailed by category, project and project phase. Payment will be disbursed as set forth below. If services have been rendered in conformity with the Agreement, the invoice will be sent to the Finance Department for payment. Invoices must reference the contract number assigned by the County after execution of this Agreement. Once approved, Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act.
- b. **Payment Categories, Payment Terms, and Not to Exceed Amounts.** The budgeted amounts paid shall be up to the amounts shown in the table at the top Attachment C, per category and per project. These amounts shall be viewed as not to exceed costs. Shifting of funds between categories of a project or between projects locations may be accomplished via written approval from the County’s project manager when there is agreement by the parties that there are savings in a Project area and valid additional costs in another Project area. Where funds cannot be reallocated within the existing funding, Contingency funding may be utilized per paragraph 5 e below. Payment terms by Payment Category are as follows:



- 1) Project Materials/Testing Costs- Costs shall be due and payable for the vendor's down payment requirement order confirmation, with the remaining balance paid upon delivery of the materials to the project staging site(s) based on receipts from the materials provider.
 - 2) Labor Costs - Design, Administration, Engineering, Monitoring, Oversight, Training, Drone Bathymetric Surveying, Data Collection, Permit Closeout and other Contractor Labor Costs shall be due and payable per the hourly rates in Attachment C, billed the first of each month. It is understood the Permit Closeout is specifically not included in the project budget and that funding from Contingency will be necessary if the funding cannot be accomplished through saving in other budgeted areas.
 - 3) Hired Outside Contractor - Shall be paid by the Contractor and shall be due and payable by the County as reimbursement upon the presentation of valid invoices from the installation and removal contractor, along with proof of payment.
 - 4) Contractor Travel, Lodging, and Meal Per Diem Costs shall be the not-to-exceed amounts, as shown in Attachment C "Project Budgets" and shall be per the per IRS rules, as applicable
 - 5) Contractor Equipment Costs shall be the amount charged for the purchase or lease of the equipment, which costs shall be due and payable upon receipt of the equipment purchase or delivery to the project site and proof of payment via receipt. Purchasing any equipment in excess of \$10,000 is specifically prohibited.
 - 6) Other Application/Permitting Fees- shall be the actual amount as shown in Attachment C "Project Budgets". Costs shall be due and payable upon proof of payment via receipt by the Contractor.
- c. Other Payment Conditions: Contractor shall make no other charges to the County for supplies, labor, taxes, licenses, permits, overhead or any other expenses or costs without the prior written approval of the County. If the County disputes any charges on the invoices, it "shall" make payment of the uncontested amounts and "may" withhold payment on the contested amounts until they are resolved by written agreement with the Contractor. Contractor shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
 - d. In the event Okaloosa County is placed under a severe tropical storm or a Hurricane Warning, Contractor shall be permitted to remove the panels and store them until the storm has passed and then reinstall the panels, with any additional costs paid out of the Contingency. The Parties shall work together on mitigating these events.



- e. Contingency: The County shall maintain a contingency amount of \$74,126.73 (the “Contingency”) for the project, that can be utilized in a judicious manner by County staff to offset increased costs for the project due to force majeure, changes to the project, or events/costs beyond the control of Contractor, including but not limited to: material production and delivery costs, increased labor costs, increased equipment rental costs, increased monitoring or permitting requirements, hours of staff time dedicated to the project above those estimated and similar type issues. Such contingency amounts shall be considered within the approval authority of the County Administrator, shall be reduced to writing, and shall be pre-approved by the County. If such costs are deemed valid and reasonable by the County’s Project Manager, such costs shall not be unreasonably withheld. The not-to-exceed amount of the contract, may be increased by the dollar amount of contingency items approved by the County Administrator, up to the maximum contingency amount of \$74,126.73. Any amount requested over the total contingency amount will require County Commission review and approval.

5. County Responsibilities:

- a. Perform any required non-drone bathymetric sand surveys for purposes of permitting, ongoing monitoring, closeout, and analysis of the project as required by permits or as agreed upon between the parties, whichever is greater. All raw survey data shall be promptly shared with the Contractor who has the right to use it.
- b. Provide two fully operational ATV’s for use for the project by the County and Contractor during the course of the project.
- c. Provide a daily check of the system in the morning (before 10am) and a second daily check the afternoon (after 2pm) during deployment.
- d. Remove and document organic material and any wildlife caught in the system, as needed.
- e. Conduct a public education and outreach activities about the project to include a mailer to all affected upland owners, public signage, QR code for signage and website.
- f. Setup a dedicated phone number and email to answer questions and emails about the project.
- g. Provide a storage location for materials and equipment pre, during and post project.
- h. Provide beach access at each project location.

6. **Ownership of Documents.** All project specific documents prepared by the Contractor pursuant to this Agreement and related Services to this Agreement are intended and represented for the ownership of the County. Any other use by Contractor or other parties shall be approved in writing by the County. If requested, Contractor shall deliver the documents to the County within fifteen (15) calendar days. Contractor shall be considered co-owner of bathymetrical survey once created.



7. **Insurance.** Contractor shall, at its sole cost and expense, during the period of any work being performed under this Agreement, procure and maintain the minimum insurance coverage required as set forth in Attachment "E" attached hereto and incorporated herein, to protect the County and Contractor against all loss, claims, damages and liabilities caused by Contractor, its agents, or employees.

8. **Termination and Remedies.**

- a. **Termination for Breach.** If, through any cause within its reasonable control, the Contractor shall fail to fulfill in a timely manner or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the County shall have the right to terminate the Services then remaining to be performed. Prior to the exercise of its option to terminate for cause, the County shall notify the Contractor of its violation of the particular terms of the Agreement and grant Contractor fifteen (15) days to cure such default. If the default remains uncured after fifteen (15) days the County may terminate this Agreement, in such event, the County shall mitigate any damages and may retain a third party to complete the Project. Contractor shall be liable for the cost to complete the Project, in excess of the remaining unpaid balance of the Compensation. The County shall pay for services rendered as of the date of termination.
 - i. In the event of termination, all finished and unfinished documents, data and other work product prepared by Contractor (and sub-Contractor (s)) shall be delivered to the County and the County shall compensate the Contractor for all Services satisfactorily performed prior to the date of termination, as provided herein.
 - ii. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the County for the costs to remove the project incurred by the County above the budgeted removal amount and any additional costs incurred related to the breach of the Agreement by Contractor. the County may reasonably withhold payment to Contractor for the purposes of set-off until such time as the exact amount of the costs above due the County from the Contractor is determined.
- b. **Termination for Convenience of County.** The County may, for its convenience and without cause immediately terminate the Services then remaining to be performed at any time by giving thirty (30) days written notice. In the event of such termination for convenience, the County shall pay for services rendered though the date of termination, to include any system removal costs that may occur within this thirty-day period. The terms of Paragraph 8 a (i) above shall be applicable hereunder. as
- c. **Termination for Insolvency.** The County also reserves the right to terminate the remaining Services to be performed in the event the Contractor is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors and the County shall pay for services rendered as of the date of termination.



- d. Termination for failure to adhere to the Public Records Law. Failure of the Contractor to adhere to the requirements of Chapter 119 of the Florida Statutes and Section 10 below, may result in immediate termination of this Agreement.
- e. Termination for Force Majeure. Neither the County, nor Contractor shall be liable for any breach, or default, for failure to timely perform its obligations under this Agreement due to any cause beyond the parties' control, provided it can be demonstrated the Force Majeure event materially affected the Contractor's performance on the Project, including: acts of God, natural disaster, inclement weather, disease, epidemics, pandemics, war, terrorist acts, governmental regulation, riots, strikes, labor disputes, fire, unusual delay in deliveries, shortage of supplies or materials, , or other causes beyond the control of a party. In such event, the affected party's performance under this Agreement shall be excused for the duration of such cause. Provided, however, that if such cause shall delay performance in excess of thirty (30) days, the non-affected party may terminate this Agreement, without liability to either party, upon written notice. The ability to delay performance under this Agreement for an act of Force Majeure, without liability, is conditioned upon delivery of written notice to the other party setting forth the basis for delay, as soon as reasonably practical - but in no event longer than five (5) days after learning of such basis.
- f. Special Damages. In no event shall either the County or the Contractor be liable for any special, consequential or punitive damages except as stated in section 8.a. above.

9. **Governing Law, Venue and Waiver of Jury Trial.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any dispute or controversy arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder shall be brought exclusively in the First Judicial Circuit in and for Okaloosa County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. In the event it becomes necessary for the County to file a lawsuit to enforce any term or provision under this Agreement, then the County shall be entitled to its costs and attorney's fees at the pretrial, trial and appellate levels. BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the County pursuant to Section 768.28, Florida Statutes.

10. **Public Records.** Any record created by either party in accordance with this Agreement shall be retained and maintained in accordance with the public records law, Florida Statutes, Chapter 119. Should Contractor determine that certain records are exempt from public disclosure, Contractor shall provide the County Attorney the justification and applicable statutory citation



to support such determination for review and approval. Contractor must comply with the public records laws, Florida Statute chapter 119, specifically Contractor must:

- a. Keep and maintain public records required by the County to perform the service.
- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the contractor or keep and maintain public records required by the County to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the public agency, upon the request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 NORTH WILSON STREET, SUITE 301, CRESTVIEW, FL 32536 PHONE: (850) 689-5979 riskinfo@myokaloosa.com.

11. **Audit.** The County and/or its designee shall have the right from time to time at its sole expense to audit the compliance by the Contractor with the terms, conditions, obligations, limitations, restrictions, and requirements of this Contract and such right shall extend for a period of three (3) years after termination of this Contract.

12. **Notices.** All notices and other communications required or permitted to be given under this Agreement by either party to the other shall be in writing and shall be sent (except as otherwise provided herein) (i) by certified mail, first class postage prepaid, return receipt requested, (ii) by guaranteed overnight delivery by a nationally recognized courier service, or (iii) by facsimile with



confirmation receipt (with a copy simultaneously sent by certified mail, first class postage prepaid, return receipt requested or by overnight delivery by traditionally recognized courier service), addressed to such party as follows:

<p>If to the County:</p>	<p>Okaloosa County Attn: Deputy County Administrator 1250 N. Eglin Pkwy, Suite 100 Shalimar, FL 32579 (850) 609-6136 ccoffey@myokaloosa.com</p>	<p>With a copy to: County Attorney Office 1250 N. Eglin Pkwy, Suite 100 Shalimar, FL 32579 (850) 224-4070 lhoshihara@myokaloosa.com</p>
<p>If to the Contractor:</p>	<p>NuShore, LLC Attn: Dr. Charles Benedict 3660 Hartsfield Road Tallahassee, FL 32303 cbenedict@nushore.com (850) 591-8692</p>	<p>With a copy to:</p>

13. **Assignment.** Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of the County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward the County.

14. **Subcontracting.** The subcontractors listed as follows: *Installation / Removal -Dive In Marine Construction* (<https://www.diveinmarineconstruction.com/>) *Suppliers - Us Wholesale* (<https://www.usw.com/>); *DPI Plastics* (<https://www.dpiplastics.com/>); *Tensar Corporation* (<https://www.tensarcorp.com/>); *WireCloth Man* (<https://www.wireclothman.com/>); *GSH Industries* (<https://www.gshindustries.com/>) are submitted by Contractor to the County in its proposal, and such subcontractors are deemed approved by the County. The Contractor shall not subcontract any other services or work to be provided to County without the prior written approval of the County's Representative. The County reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. The County's acceptance of a subcontractor shall not be unreasonably withheld. The Contractor is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. Additionally, any subcontract entered into between the Contractor and subcontractor will need to be approved by the County prior to it being entered into and said agreement shall incorporate in all required terms in accordance with local, state and Federal regulations.

15. **Civil Rights.** The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.



16. **Compliance with Nondiscrimination Requirements.** During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest, agrees as follows:

a. **Compliance with Regulations:** The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated and attached hereto as Attachment "F".

b. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

c. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

d. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or other governmental entity to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the County or the other governmental entity, as appropriate, and will set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the County will impose such contract sanctions as it or another applicable state or federal governmental entity may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the Agreement until the Contractor complies; and/or

b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

f. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and



leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the County may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the County to enter into any litigation to protect the interests of the County. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. **Compliance with Laws.** Contractor shall secure any and all permits, licenses and approvals that may be required in order to perform the Services, shall exercise full and complete authority over Contractor's personnel, shall comply with all workers' compensation, employer's liability and all other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer performing services such as the Services, and shall make all reports and remit all withholdings or other deductions from the compensation paid to Contractor's personnel as may be required by any federal, state, county, or municipal law, ordinance, rule, or regulation.

18. **Conflict of Interest.** The Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly which could conflict in any manner or degree with the performance of the Services. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall knowingly be employed by the Contractor. The Contractor guarantees that he/she has not offered or given to any member of, delegate to the Congress of the United States, any or part of this contract or to any benefit arising therefrom.

19. **Independent Contractor.** Contractor enters into this Agreement as, and shall continue to be, an independent contractor. All services shall be performed only by Contractor and Contractor's employees. Under no circumstances shall Contractor or any of Contractor's employees look to the County as his/her employer, or as partner, agent or principal. Neither Contractor, nor any of Contractor's employees, shall be entitled to any benefits accorded to the County's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in Contractor's name, unemployment, disability, worker's compensation and other insurance as well as licenses and permits usual and necessary for conducting the services to be provided under this Agreement.

20. **Third Party Beneficiaries.** It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

21. **Indemnification and Waiver of Liability.** The Contractor agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the County, its agents, representatives, officers, directors, officials and employees from and against claims, damages, losses and expenses (including but not limited to attorney's fees, court costs and costs of appellate proceedings) relating



to, arising out of or resulting from the Contractor's negligent acts, errors, mistakes or omissions relating to professional Services performed under this Agreement. The Contractor's duty to defend, hold harmless and indemnify the County its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury; sickness; disease; death; or injury to impairment, or destruction of tangible property including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes or omissions related to Services in the performance of this Agreement including any person for whose acts, errors, mistakes or omissions the Contractor may be legally liable. The parties agree that TEN DOLLARS (\$10.00) represents specific consideration to the Contractor for the indemnification set forth herein.

The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the County to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the County thereafter to enforce such provisions.

22. **Taxes and Assessments.** Contractor agrees to pay all sales, use, or other taxes, assessments and other similar charges when due now or in the future, required by any local, state or federal law, including but not limited to such taxes and assessments as may from time to time be imposed by the County in accordance with this Agreement. Contractor further agrees that it shall protect, reimburse and indemnify County from and assume all liability for its tax and assessment obligations under the terms of the Agreement.

The County is exempt from payment of Florida state sales and use taxes. The Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, nor is the Contractor authorized to use the County's tax exemption number in securing such materials.

The Contractor shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

23. **Prohibition Against Contracting with Scrutinized Companies.** Pursuant to Florida Statutes Section 215.4725, contracting with any entity that is listed on the Scrutinized Companies that Boycott Israel List or that is engaged in the boycott of Israel is prohibited. Contractors must certify that the company is not participating in a boycott of Israel. Any contract for goods or services of One Million Dollars (\$1,000,000) or more shall be terminated at the County's option if it is discovered that the entity submitted false documents of certification, is listed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria after July 1, 2018.

Any contract entered into or renewed after July 1, 2018 shall be terminated at the County's option if the company is listed on the Scrutinized Companies that Boycott Israel List or engaged in the boycott of Israel. Contractors must submit the certification that is attached to this agreement as Attachment "D". Submitting a false certification shall be deemed a material breach of contract.



The County shall provide notice, in writing, to the Contractor of the County's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination was in error. If the Contractor does not demonstrate that the County's determination of false certification was made in error, then the County shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute Section 215.4725.

24. **Inconsistencies and Entire Agreement.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any attachment attached hereto, any document or events referred to herein, or any document incorporated into this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given superior effect and priority over any conflicting or inconsistent term, statement, requirement or provision contained in any other document or attachment, including but not limited to Attachments listed in Section 1.

25. **Severability.** If any term or condition of this Contract shall be deemed, by a court having appropriate jurisdiction, invalid or unenforceable, the remainder of the terms and conditions of this Contract shall remain in full force and effect. This Contract shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all the terms and provisions hereof.

26. **Entire Agreement.** This Agreement contains the entire agreement of the parties, and may be amended, waived, changed, modified, extended or rescinded only by in writing signed by the party against whom any such amendment, waiver, change, modification, extension and/or rescission is sought.

27. **Representation of Authority to Contractor/Signatory.** The individual signing this Agreement on behalf of Contractor represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. The signatory represents and warrants to the County that the execution and delivery of this Agreement and the performance of the Services and obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the Contractor and enforceable in accordance with its terms.

(Remainder of Page Intentionally Left Blank)



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

WITNESS:

[Signature]
Signature

MATTHEW A. SIMONS
Print Name

NUSHORE

BY: [Signature]
Dr. Charles Benedict, President

Date: 06/30/2021

ATTEST:

[Signature]
J.D. Peacock II, Clerk of Courts



OKALOOSA COUNTY, FLORIDA

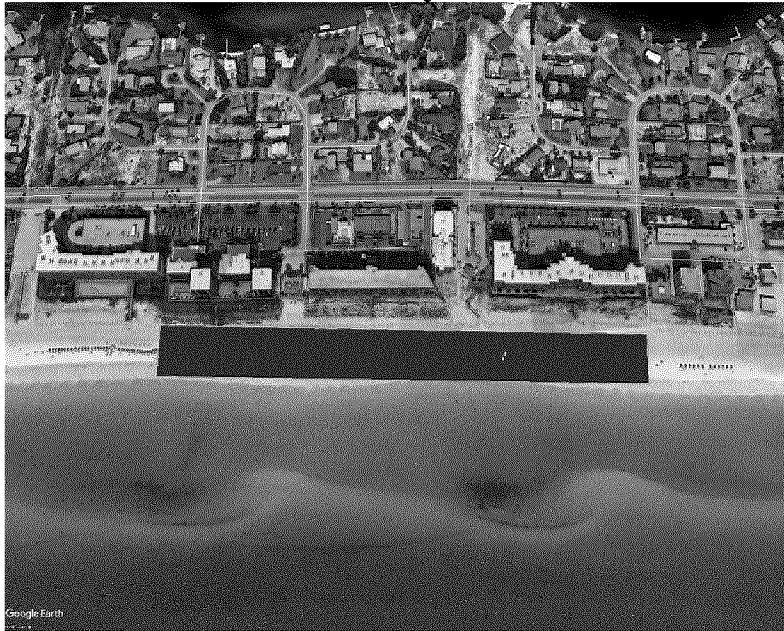
BY: [Signature]
Carolyn N. Ketchel, Chairman



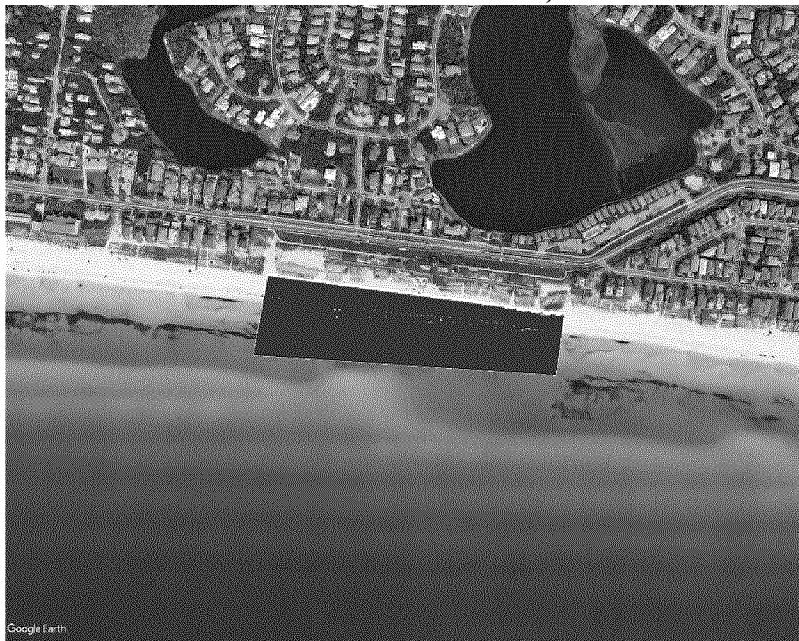


Attachment "A"
Temporary Groin Project Areas
(Aerial Photos, Distances and Locations)

West Okaloosa Island – Between 400ft East of Beach Accessways 3 to 400ft East of Beach Accessway 4 ~1,500 linear feet



Destin – James Lee Park ~1,500 linear





Attachment “B” Scope of Work Continued

The system is comprised of a series of short porous "fences" or “groins” anchored on each end with 3-inch galvanized steel stanchions. The intermediate stanchions are spaced 10 feet apart, running seaward or perpendicular to the shoreline for 150 feet. A screen is attached to the posts, much like a fence. A portable mechanism raises the screens upward, lifting the screen up as sand and other materials build the sea floor. The screens can then be removed on a periodic basis, so the shoreline is continuous with no trenches and to minimize beach disturbance when system is removed.

Scope of work task includes but are not limited to:

Installation and Removal of the System

Maintenance and Repair of the System during up to a six-month deployment

Hiring any Sub-contractors

Hiring any temporary labor

Supplying, renting or purchasing any necessary equipment for the project

Perform bathymetric surveys using aerial drone.

Procurement of all necessary materials and supplies

Obtain all permits and modifications necessary for the project

Provide all project oversight, coordination, and management of the project

Coordinate and communicate efficiently with County Project Manager

Timely submittal of project reports to any permitting agencies

Example of Deployed System





Attachment "C" Projects Budget

NUSHORE PROJECTS BUDGET (COUNTY ONLY)

Project Cost Categories	Destin - James Lee	West Okaloosa	Totals
Project Materials/Testing	\$ 146,396.68	\$ 146,396.68	\$ 292,793.35
Labor Costs	\$ 71,500.17	\$ 71,500.17	\$ 143,000.33
Hired Outside Contractor	\$ 27,486.89	\$ 27,486.89	\$ 54,973.77
Travel, Lodging Per	\$ 11,755.22	\$ 11,755.22	\$ 23,510.44
Contractor Equipment	\$ 32,000.00	\$ 32,000.00	\$ 64,000.00
Other Application/Permitting	\$ 7,367.48	\$ 7,368.48	\$ 14,735.96
Total	\$ 296,506.43	\$ 296,507.43	\$ 593,013.85
Contingency	\$ 37,063.30	\$ 37,063.43	\$ 74,126.73
Maximum Project Cost	\$ 333,569.73	\$ 333,570.86	\$667,140.59

NUSHORE Detailed Project Budgets				
COST FOR 3000 FEET OF NUSHORE SYSTEM				
		1500	1500	
Permitting	Unit	James Lee	West OK	Total Cost
Application fee (based on previous experience)	ea	\$ 264.00	\$ 265.00	\$ 529.00
Engineering (engineering required to obtain permit)	LS	\$ 7,303.28	\$ 7,303.28	\$ 14,606.56
Administrative (administrative cost to process)	man hr	\$ 1,735.08	\$ 1,735.08	\$ 3,470.16
TOTAL for PERMIT COST		\$ 9,302.36	\$ 9,303.36	\$ 18,605.72
Materials	Unit			Total cost
Pre-project engineering work: materials selection, cost	ea	\$ 10,204.26	\$ 10,204.26	\$ 20,408.52
Stanchions R287512228GAP (materials + labor)	19' ea	\$75,002.43	\$75,002.43	\$ 150,004.85
Black Co-Poly Stanchion Plug FLO37 STANCH PLUG	ea	\$206.87	\$206.87	\$ 413.73
Black Co-Poly Double Lead Stanchion Cap FLO37	ea	\$3,259.03	\$3,259.03	\$ 6,518.07
One time tooling charge STANCH PLUG-TOOLING	ea			\$ -
WIRE - PVC BLACK 1/2" x 1/2" - MESH .063 12'	ea			\$ -
WIRE - PVC BLACK 1/2" x 1/2" - MESH .063 12'	ea	\$ 4,864.86	\$ 4,864.86	\$ 9,729.72
BX1500 4.3' x 10' (rolls made of 13.1' x 164' - S panel)				\$ -
BX1500 4.3' x 10' (rolls made of 13.1' x 164' - c panel)		\$ 6,372.59	\$ 6,372.59	\$ 12,745.17
CNC Fixture for Hole Drilling	ea			\$ -
Fence assembly - Polyprop extr, rivets and washers	ea	\$55,184.82	\$55,184.82	\$ 110,369.63
Signage & lights (coastguard signs in the water, lights)	ea	\$780.00	\$780.00	\$ 1,560.00
Testing (strength testing for the material)	ea	\$726.09	\$726.09	\$ 1,452.17
TOTAL for MATERIALS		\$156,600.94	\$156,600.94	\$ 313,201.87



NUSHORE Detailed Projects Budget Continued

<u>Installation/Removal</u>	<u>Unit</u>			<u>Total Cost</u>
Pre-installation work: site layout, siting of groyne		\$5,799.10	\$5,799.10	\$11,598.20
Pre-installation physical monitoring training to o		\$6,551.31	\$6,551.31	\$13,102.62
Cost of Labor for Installation (contractor for LS		\$18,943.77	\$18,943.77	\$37,887.54
Cost of Labor for Removal (contractor for re LS		\$8,543.11	\$8,543.11	\$17,086.23
Oversight of installation	ls	\$6,030.00	\$6,030.00	\$12,060.00
Project Engineer (supervision, managing the ea		\$6,320.74	\$6,320.74	\$12,641.48
Installation of Coast Guard Signs (to be neg ea				\$0.00
TOTAL for INSTALLATION/REMOVAL		\$52,188.04	\$52,188.04	\$104,376.07
<u>Monitoring (during the entire project)</u>	<u>Unit</u>			<u>Total Cost</u>
Drone bathymetric surveying	ls	\$3,510.00	\$3,510.00	\$7,020.00
Training for monitoring	ls	\$2,232.30	\$2,232.30	\$4,464.59
Physical Monitoring - including biological	LS	\$15,015.00	\$15,015.00	\$30,030.00
Physical Maintenance - replacing broken panels		\$11,145.00	\$11,145.00	\$22,290.00
Engineer - once a week during project for 6	LS	<u>\$10,142.46</u>	<u>\$10,142.46</u>	<u>\$20,284.92</u>
TOTAL for MONITORING		\$42,044.75	\$42,044.75	\$84,089.51
<u>Administration</u>	<u>Unit</u>			<u>Total Cost</u>
Administration (PO, AP, contract managemen	LS	\$7,781.07	\$7,781.07	\$15,562.13
Insurance (General Liability)	LS	<u>\$5,918.48</u>	<u>\$5,918.48</u>	<u>\$11,836.96</u>
TOTAL for Administration		\$13,699.54	\$13,699.54	\$27,399.09
<u>Project Mgmt</u>	<u>Unit</u>			<u>Total Cost</u>
PM (project overview, contract managemen ea		\$6,315.25	\$6,315.25	\$12,630.49
Lodging (if people are not local)	LS	\$5,532.79	\$5,532.79	\$11,065.57
Transportation (billed by the mile)		\$3,630.00	\$3,630.00	\$7,260.00
Per Diem (if people are not local)	LS	\$2,592.43	\$2,592.43	\$5,184.87
Ask County for fresh water supply (to be billed to f		\$0.00	\$0.00	\$0.00
Miscellaneous supplies		\$1,185.00	\$1,185.00	\$2,370.00
Equipment (pressure washer, front loader, LS		<u>\$32,000.00</u>	<u>\$32,000.00</u>	<u>\$64,000.00</u>
TOTAL for PROJECT MGMT		\$51,255.47	\$51,255.47	\$102,510.93
TOTAL PROJECT		\$325,091.10	\$ 325,092.10	\$650,183.20
NuShore cost-share		\$28,584.67	\$ 28,584.67	\$57,169.34
Total with NuShore cost-share		\$ 296,506.43	\$ 296,507.43	\$593,013.85
County Project Contingency		\$ 37,063.30	\$ 37,063.43	\$ 74,126.73
Maximum Project Costs with Contingency		\$ 333,569.73	\$ 333,570.86	\$ 667,140.59

Wage and Position Rates

Engineer for NuShore: \$150/hr (Dr. Benedict, Perry, Nicola, Others)

Administrator for NuShore: \$72/hr (Lorie and Others)



Attachment "D"
Sole Source Procurement Justification



SINGLE SOURCE PURCHASE JUSTIFICATION REQUEST

A single source means that a commodity or service can be purchased from multiple sources, but, in order to meet certain functional or performance requirements (e.g. parts matching existing equipment or materials) there is only one economically feasible source for the purchase.

Date: 06/04/2021

PR No:

Requestor: Alex Fogg

Phone No: (850) 609-5394

Department/Division: TDD

Item Description: The project proposed is to contract with NuShore to install an innovative, engineered porous groin system. The system name is as also named NuShore. This system builds sand on the beach from offshore to create new

Vendor: NuShore LLC

Vendor's Address: 660 Hartsfield Road
Tallahassee, FL 32303

Vendor's Telephone No: (850) 591-8692

Point of Contact: Dr. Charles Benedict

Single Source Justification:
(attach additional docs if any)

This project should be sole sourced for a number of reasons; First, this is the only company that manufactures, installs or has completed a project such as this and there are no other products of its kind. Second, NuShore has experience with projects in the area and has actually experimented with this technology on adjacent beaches (Walter Co and Edlin AFB) to

Check One:

- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. (attach emergency condition documentation)
- Federal Awarding Agency or Pass Through Agency authorizes noncompetitive negotiations (letter of authorization is attached).
- The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached).
- Other, additional justification required (continue on blank page as needed)

Craig Coffey Digitally signed by Craig Coffey
Date: 2021.06.04 14:04:49 -05'00'

Requesting Department Director Signature (or authorized Designee)

Date

REVIEW BY OMB AND PURCHASING

Approved:

OMB and Purchasing Department Comments:

Denied:

Faye Douglas Digitally signed by Faye Douglas
Date: 2021.06.07 08:12:52 -05'00'

OMB Director Signature

Date



Attachment "E" **Insurance Requirements**

GENERAL SERVICES INSURANCE REQUIREMENTS

REVISED: 01/2/2019

CONTRACTORS INSURANCE

1. The Contractor shall not commence any work in connection with this Agreement until he has obtained all required insurance and the certificate of insurance has been approved by the Okaloosa County Risk Manager or designee.
2. All insurance policies shall be with insurers authorized to do business in the State of Florida. Insuring company is required to have a minimum rating of A, Class X in the Best Key Rating Guide published by A.M. Best & Co. Inc.
3. All insurance shall include the interest of all entities named and their respective officials, employees & volunteers of each and all other interests as may be reasonably required by Okaloosa County. The coverage afforded the Additional Insured under this policy shall be primary insurance. If the Additional Insured have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.
4. Where applicable the County shall be shown as an Additional Insured with a waiver of Subrogation on the Certificate of Insurance on all Workers Compensation Clauses.
5. The County shall retain the right to reject all insurance policies that do not meet the requirement of this Agreement. Further, the County reserves the right to change these insurance requirements with 60-day prior written notice to the Contractor.
6. The County reserves the right at any time to require the Contractor to provide copies (redacted if necessary) of any insurance policies to document the insurance coverage specified in this Agreement.
7. Any subsidiaries used shall also be required to obtain and maintain the same insurance requirements as are being required herein of the Contractor.
8. Any exclusions or provisions in the insurance maintained by the Contractor that excludes coverage for work contemplated in this agreement shall be deemed unacceptable and shall be considered breach of contract.



WORKERS' COMPENSATION INSURANCE

1. The Contractor shall secure and maintain during the life of this Agreement Workers' Compensation insurance for all of his employees employed for the project or any site connected with the work, including supervision, administration or management, of this project and in case any work is sublet, with the approval of the County, the Contractor shall require the Subcontractor similarly to provide Workers' Compensation insurance for all employees employed at the site of the project, and such evidence of insurance shall be furnished to the County not less than ten (10) days prior to the commencement of any and all sub-contractual Agreements which have been approved by the County.
2. Contractor must be in compliance with all applicable State and Federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act or Jones Act, if applicable.
3. No class of employee, including the Contractor himself, shall be excluded from the Workers' Compensation insurance coverage. The Workers' Compensation insurance shall also include Employer's Liability coverage.
4. Okaloosa County Board of County Commissioners shall be listed as an Additional Insured by policy endorsement on all policies applicable to this agreement except Worker's Compensation. A waiver of subrogation is required on all policies

BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident. If the contractor does not own vehicles, the contractor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Policy. Contractor must maintain this insurance coverage throughout the life of this Agreement.

COMMERCIAL GENERAL LIABILITY INSURANCE

1. The Contractor shall carry Commercial General Liability insurance against all claims for Bodily Injury, Property Damage and Personal and Advertising Injury caused by the Contractor.
2. Commercial General Liability coverage shall include the following:
 - 1.) Premises & Operations Liability
 - 2.) Bodily Injury and Property Damage Liability
 - 3.) Independent Contractors Liability



- 4.) Contractual Liability
 - 5.) Products and Completed Operations Liability
3. Contractor shall agree to keep in continuous force Commercial General Liability coverage for the length of the contract.

INSURANCE LIMITS OF LIABILITY

The insurance required shall be written for not less than the following, or greater if required by law and shall include Employer's liability with limits as prescribed in this contract:

	<u>LIMIT</u>
1. Workers' Compensation	
1.) State	Statutory
2.) Employer's Liability	\$500,000 each accident
2. Business Automobile	\$1,000,000 each accident (A combined single limit)
3. Commercial General Liability	\$1,000,000 each occurrence for Bodily Injury & Property Damage \$1,000,000 each occurrence Products and completed operations
4. Personal and Advertising Injury	\$1,000,000 each occurrence

NOTICE OF CLAIMS OR LITIGATION

The Contractor agrees to report any incident or claim that results from performance of this Agreement. The County representative shall receive written notice in the form of a detailed written report describing the incident or claim within ten (10) days of the Contractor's knowledge. In the event such incident or claim involves injury and/or property damage to a third party, verbal notification shall be given the same day the Contractor becomes aware of the incident or claim followed by a written detailed report within ten (10) days of verbal notification.

INDEMNIFICATION & HOLD HARMLESS

Contractor shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of this contract.



CERTIFICATE OF INSURANCE

1. Certificates of insurance indicating the job site and evidencing all required coverage must be submitted not less than 10 days prior to the commencement of any of the work. The certificate holder(s) shall be as follows: Okaloosa County Board of County Commissioners, 302 N. Wilson St., Crestview, Florida, 32536.
2. The contractor shall provide a Certificate of Insurance to the County with a thirty (30) day prior written notice of cancellation; ten (10 days' prior written notice if cancellation is for nonpayment of premium).
3. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the contractor to provide the proper notice. Such notification shall be in writing by registered mail, return receipt requested, and addressed to the Okaloosa County Purchasing Department at 5479-A Old Bethel Road, Crestview, FL 32536.
4. In the event the contract term goes beyond the expiration date of the insurance policy, the contractor shall provide the County with an updated Certificate of insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The County reserves the right to suspend the contract until this requirement is met.
5. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.
6. All certificates shall be subject to Okaloosa County's approval of adequacy of protection.
7. All deductibles or SIRs, whether approved by Okaloosa County or not, shall be the Contractor's full responsibility.
8. In no way will the entities listed as Additional Insured be responsible for, pay for, be damaged by, or limited to coverage required by this schedule due to the existence of a deductible or SIR.



GENERAL TERMS

Any type of insurance or increase of limits of liability not described above which, the Contractor required for its own protection or on account of statute shall be its own responsibility and at its own expense.

Any exclusions or provisions in the insurance maintained by the contractor that excludes coverage for work contemplated in this contract shall be deemed unacceptable and shall be considered breach of contract.

The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility under this contract.

Should the Contractor engage a subcontractor or sub-subcontractor, the same conditions will apply under this Agreement to each subcontractor and sub-subcontractor.

The Contractor hereby waives all rights of subrogation against Okaloosa County and its employees under all the foregoing policies of insurance.

EXCESS/UMBRELLA INSURANCE

The Contractor shall have the right to meet the liability insurance requirements with the purchase of an EXCESS/UMBRELLA insurance policy. In all instances, the combination of primary and EXCESS/UMBRELLA liability coverage must equal or exceed the minimum liability insurance limits stated in this Agreement.



Attachment “F” Civil Rights Clauses

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), as applicable, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).



Attachment "G"

VENDORS ON SCRUTINIZED COMPANIES LISTS

By executing this Certificate NuShore LLC, the bid proposer, certifies that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, (2) engaged in a boycott of Israel, (3) listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, or (4) engaged in business operations in Cuba or Syria. Pursuant to section 287.135(5), Florida Statutes, the County may disqualify the bid proper immediately or immediately terminate any agreement entered into for cause if the bid proposer is found to have submitted a false certification as to the above or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If the County determines that the bid proposer has submitted a false certification, the County will provide written notice to the bid proposer. Unless the bid proposer demonstrates in writing, within 90 calendar days of receipt of the notice, that the County's determination of false certification was made in error, the County shall bring a civil action against the bid proposer. If the County's determination is upheld, a civil penalty shall apply, and the bid proposer will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of County's determination of false certification by bid proposer.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

DATE: _____

SIGNATURE: _____

COMPANY: _____

NAME: _____

(Typed or Printed)

ADDRESS: _____

TITLE: _____

E-MAIL: _____

PHONE NO.: _____

Scrutinized Contractors Certificate



Office of Management & Budget

State of Florida

DATE: July 6, 2021

SUBJECT: Budget Transfer – Tourist Development
Fund BT-21-041

TO: Board of County Commissioners
Finance Director

Transfer From	Department	Account	Amount
Reserve-TDD O&M	1175	599140	(\$557,859)
Transfer To	Department	Account	Amount
Other Improvements	1175	563790	(\$557,859)

Faye
Douglas

Digitally signed by Faye
Douglas
Date: 2021.06.30
08:28:44 -05'00'

Reviewed by:
Faye Douglas, Office of Management and Budget Director

Reference: This transfer, netted with \$1.45M budget transfer approved on June 15, 2021, reflects a total of \$892,141 - the NuShore Construction Agreement \$667,141 plus forthcoming MRD task order \$225K approved by the Board on July 6, 2021. Purpose of project is beach management and renourishment through construction of porous fences/groins.

APPROVED
DATE JUL 06 2021
BY *Mary A. Carson*

Okaloosa County Administration Building
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Shalimar, Florida 32579
850 651-7643