Board of Directors Meeting Agenda
January 31, 2019; 1:00 p.m. EST
Tallahassee Community College, Center for Innovation
350 S. Duval Street, Tallahassee, FL 32301
Dial-in Number: +1 (224) 501-3318
Access Code: 504-268-549

1. Call to Order and Roll Call

2. Public Comment

3. Approval of Minutes from November 29, 2018 Board Meeting **(Action Required)**

4. Officer Elections **(Action Required)**

5. Gulf Consortium history and status
   Dan Dourte
   The Balmoral Group

6. RESTORE Council update
   Ben Scaggs - Executive Director, RESTORE Council

Old Business:

7. Manager's Report
   a. Status of stand-up activities
   b. Planning Grant Update / Summary
   c. Financial Statements
   d. Bank Signature Cards Transfer
      Valerie Seidel, Manager
      The Balmoral Group

8. SEP Project Implementation Update
   Dan Dourte
   The Balmoral Group

New Business:

9. Revised Operating Budget for Fiscal Year 2018-2019 **(Action Required)**
   Valerie Seidel, Manager
   The Balmoral Group

10. SEP Amendment – Manatee County project changes **(Action Required)**
   Dan Dourte
   The Balmoral Group

11. General Counsel's Report
    a. TBG Contract Amendment **(Action Required)**
    b. Conflict of Interest discussion

12. Triumph 15 funding planning discussion **(Action Required)**

13. Public Comment

14. Upcoming Gulf Consortium Board Meeting

    Thursday, March 28, 2019
    Leon County

15. Adjourn

Gulf Consortium Directors, Alternates and Governor's Appointees
2019

County	Directors and Alternates
Bay	Commissioner Philip Griffitts, Director; Commissioner Robert Carroll, Alternate
Charlotte	Commissioner Christopher Constance, Director; Alternates: Commissioner Ken Doherty, Emily Lewis
Citrus	Commissioner Scott Carnahan, Director; Randy Oliver, Alternate
Collier	Commissioner Burt Saunders, Director; Alternates: Commissioner Penny Taylor, Gary McAlpin
Dixie	Tim Alexander, Director
Escambia	Commissioner Doug Underhill, Director; Commissioner Robert Bender, Alternate
Franklin	Commissioner Joseph "Smokey" Parrish, Director; Michael Morón, Alternate:
Gulf	Warren Yeager, Director; Donald Butler, Alternate
Hernando	Commissioner Wayne Dukes, Director; Len Sossamon, Alternate
Hillsborough	Commissioner Les Miller, Director; Alternates: Commissioner Ken Hagan, Jim Taylor
Jefferson	Commissioner Betsy Barfield, Director; Parrish Barwick, Alternate
Lee	Commissioner Brian Hamman, Director; Alternates: Commissioner Larry Kiker, Kurt Harclerode
Levy	Commissioner John Meeks, Director; Tisha Whitehurst, Alternate
Manatee	Commissioner Carol Whitmore, Director; Charlie Hunsicker, Alternate
Monroe	George Neugent, Director; Commissioner David Rice, Alternate
Okaloosa	Commissioner Kelly Windes, Director; Commissioner Carolyn Ketchel, Alternate
Pasco	Commissioner Jack Mariano, Director; Commissioner Ron Oakley, Alternate
Pinellas	Commissioner Charlie Justice, Director; Andy Squires, Alternate
Santa Rosa	Commissioner Lane Lynchard
Sarasota	Commissioner Nancy Detert, Director; Laird Wreford, Alternate
Taylor	Commissioner Jim Moody, Director; LaWanda Pemberton, Alternate
Wakulla	David Edwards, Director; Commissioner Ralph Thomas, Alternate
Walton	Larry Jones, Director
Governor's Appointees	Pam Anderson, Panama City; Peter Bos, Destin; Lino Maldonado, Niceville; Collier Merrill, Pensacola; Mike Sole, Tallahassee; Neal Wade, Panama City

Notice of Meeting/Workshop Hearing

OTHER AGENCIES AND ORGANIZATIONS
Gulf Consortium
The Gulf Consortium Board of Directors announces a public meeting, to which all persons are invited.
DATE AND TIME: January 31 2019 at 1:00 pm (ET)

PLACE: Tallahassee Community College, Center for Innovation
350 S. Duval Street, Tallahassee, FL 32301 Dial-in Number: +1 (224) 501-3318
Access Code: 504-268-549

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Board of Directors of the Gulf Consortium will meet to discuss SEP project implementation and consultant contracts; hold board elections, and conduct other business at the discretion of the Board. A copy of the agenda may be obtained at www.gulfconsortium.org or by contacting: General Manager at 407-629-2185 or Gulf.Consortium@balmoralgroup.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: General Manager at 407-629-2185 or Gulf.Consortium@balmoralgroup.us

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.
For more information, you may contact General Manager at 407-629-2185 or Gulf.Consortium@balmoralgroup.us; or, see www.gulfconsortium.org

AGENDA ITEM 3

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 3
Approval of November 29, 2018 Minutes

Statement of Issue:
Request to approve the minutes of the November 29, 2018 meeting of the Gulf Consortium Board of Directors.

Options:
(1) Approve the November 29, 2018 minutes as presented; or
(2) Amend and then approve the minutes.

Recommendation:
Motion to approve Option 1.

Prepared by:
The Balmoral Group, General Manager
On: January 21, 2019

Attachment:
Draft Minutes, November 29, 2018 meeting of the Gulf Consortium.

Action Taken:

Motion to: ______________________, Made by: __________________________;

Seconded by: _______________________.

Approved____; Approved as amended_______; Defeated_________.

Gulf Consortium Meeting
November 29, 2018, 4:00 p.m. EDT
Tampa Mariott Waterside Hotel & Marina
700 S Florida Ave
Tampa, FL 33602

Board Members in Attendance: Commissioner Chris Constance (Charlotte), Commissioner Scott Carnahan (Citrus), Gary McAlpin (Collier), Tim Alexander (Dixie) - Phone; Commissioner Grover Robinson (Escambia), Commissioner Joseph "Smokey" Parrish (Franklin), Warren Yeager (Gulf), Commissioner Wayne Dukes (Hernando), Jim Taylor (Hillsborough) Commissioner Betsy Barfield (Jefferson), Commissioner John Meeks (Levy) Charlie Hunsicker(Manatee), Commissioner George Neugent (Monroe), Commissioner Jack Mariano (Pasco), Andy Squires (Pinellas), Commissioner Lane Lynchard (Santa Rosa), Commissioner Charles Hines (Sarasota), LaWanda Pemberton (Taylor), David Edwards (Wakulla), Larry Jones (Walton), Michael Sole (Governor's Appointee) - Phone, and Pam Anderson (Governor's Appointee) - Phone

Agenda Item #1 – Call to Order and Roll Call
Chairman Grover Robinson (Escambia) called the meeting to order at 4:06PM (EST), once a quorum was present. He noted that the General Counsel Report would be moved to the end of the Agenda before public comment.

Agenda Item #2 – Public Comment
None.

Agenda Item #3 – Approval of September 27, 2018 Minutes
Chairman Robinson presented the September 27, 2018 minutes of the Gulf Consortium. A motion to approve the minutes as presented was made by Commissioner Wayne Dukes (Hernando) and seconded by Warren Yeager (Gulf). The motion passed unanimously.

ACTION: APPROVED

Agenda Item #4 Manager's Report
Chairman Robinson (Escambia) recognized Valerie Seidel (The Balmoral Group) who gave an update on the status of the SSEP. Significant progress had been made toward Implementation, policy reviews were completed with Coordinators and the Executive Committee –with helpful feedback from both. OSAs and Audits were obtained from each County and a review of OSA and Audit findings from each County were completed to be summarized to identify action items required for discussion with Council. The first required RESTORE training had been completed that morning with additional training the next day (Friday) and the coming Monday. Several calls with Council were completed to discuss policies and approval processes. Minor tweaks may still need to be addressed in the policies. No one at Council was available for the November meeting, but going forward Council should be able to provide a report at future board meetings. There was a contract with Leon County included in the agenda packet which adds a layer of compliance assurances and Balmoral had discussions with scientific staff at NERRs for BAS, monitoring reviews. Due to the first grant bundle being conceptual design, there is still time to finalize. Next, Valerie spoke about the other manager issues which included a Dashboard updated online with all the project data to make the SEP accessible and easy to reference. There were fewer procurements anticipated than originally thought, contract due dates were on the website prominently and staffing changes had been made to address communication shortfalls. A timeline was proposed for rolling out the grants which would be addressed in further detail during Dan Dourte's Agenda Item. Valerie handed the floor to Warren Yeager who presented

Chairman Robinson (Escambia) with an award recognizing his leadership while chair on the board. Jessica Bizba (NWF) also presented the Chairman with a cake from Matt Posner (Escambia).

Agenda Item #4b– Status of Planning Grant Award and Work Orders

Valerie Seidel gave an update on the planning grant. There was one final progress report due on November 30th. To date 17 payment request totaling $2,735,183 had been submitted to Council and paid. There were no questions on this item. No action was necessary.

Agenda Item #4c– Manager's Report – Financials

William Smith (The Balmoral Group) gave an update on the Financial Statements for the Gulf Consortium which were included in the agenda packet and updated through September 2018. A net income of 49,000 was shown to date. There were no questions on this item. No action was necessary

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Agenda Item #5 – Status of Bucket 2 Projects

Phil Coram (DEP) gave an update on the award of 7 projects – from NFWF GEBF, totaling $53M – including 20,000 acres to be purchased in Dixie County, 3 turtle projects and an oyster bay in Pensacola. He noted about the effects of Hurricane Michael and that all but one of the projects can go forward. There will be a public webinar on December 13th to discuss the NRDA plan. It's expected that plan will be finalized in February. RESTORE pot 2 projects are planned to be submitted in May of 2019. Chairman Robinson noted the importance at this time of exploring all the leveraging opportunities among RESTORE act funding streams.

Agenda Item #7 – Grant Preparation and Submission – Project Milestones and Timing

Dan Dourte (The Balmoral Group) brought to the board the request for Board approval of candidate project milestones for Year 1 of SEP implementation. He said that they worked from the sequencing that was approved from the SEP which resulted in 123 project milestones, across 23 counties for a total Pot 3 cost of $79,000. A list of these projects was included in the agenda packet as well as the web interface. Dan Dourte laid out quarterly cutoffs for the Grants about one month before GC Board meetings which would allow time for proposal review so they can be reviewed at the Board Meetings. The purpose of the guidelines was to avoid overloading RESTORE Council with 50 grants at a time. Commissioner Scott Carnahan (Citrus) was concerned about bundling the grants every quarter and asked if that was something that Council had requested. He had some projects that would be ready to go especially land acquisition or matching grant funds projects. Dan Dourte replied that it was a strong recommendation from Council but that grants could be submitted at any time. Balmoral would be able to submit the grants even if they were after the deadline. Commissioner Jack Mariano (Pasco) asked if they had to wait until January; Dan Dourte replied they could submit them now which would beneficial because they could start the review. Chairman Grover Robinson (Escambia) commented that they would have to work with Council and be patient with them ultimately. The motion to approve the project milestones was made by Commissioner Wayne Dukes (Hernando), seconded by Commissioner Scott Carnahan (Citrus). All in favor, none opposed.

ACTION: APPROVED

Agenda Item #8– Amendment to Interlocal Agreement with Leon County for Fiscal Agent Services

Valerie Seidel (The Balmoral Group) presented to the Board a contract amendment with the Leon County Clerk for Fiscal Agent Services. Leon County Clerk was contracted to provide Fiscal Agent Services by the Gulf Consortium in 2014. The proposed amendment provides for compensation at a cost of up to an estimated ten basis points. This was allowed for during budgeting. Leon County Clerk had previously been performing the services at no cost. Commissioner Scott Carnahan (Citrus) made the motion to approve the contract amendment with Leon County Clerk, Warren Yeager (Gulf) seconded the motion. All in favor, none opposed.

ACTION: APPROVED

Agenda Item #9– Gulf Consortium Policies and Procedures for RESTORE Council Review

Valerie Seidel (The Balmoral Group) presented the Gulf Consortium Policies and Procedures for Board consideration and approval. Policies had been developed to address conduct, communications, accounting and financial management, internal controls, grants management and subrecipient policies. In most cases policy language was based on RESTORE Council language where available or Pinellas County since they were the first to receive approval of their OSA. The policies were reviewed in separate meetings with Executive Committee on October 24, November 7 and November 15th, with RESTORE coordinators on October 23rd and November 13 and with RESTORE Council on October 11th and November 13th. Comments received were incorporated and legal review completed prior to the policies being combined into one document. A comments summary was included by request of the Executive Committee. Additional minor edits would still be required per Council but we hope no substantive changes will have to be made. Charlie Hunsicker (Manatee) asked about the ethical requirements on page 59 of the conduct policy and thought the language was too broad. Lynn Hoshihara replied that was referencing Chapter 112 and that the language was in the SEP itself. Commissioner Chris Constance (Charlotte) asked to change the consultant reference in the policy to "managing consultant and general counsel" and Commissioner Betsy Barfield (Jefferson) agreed that the consultant reference should be clarified as suggested by Commissioner Constance. Lynn Hoshihara reiterated that the language was already in the SEP but they could change it. Larry Jones (Walton) commented on section 2.3 waiver and 4.5 revision of specifications in the procurement policy which Valerie Seidel clarified was to accommodate immaterial items and that language was included in several other counties procurement policies. Larry Jones (Walton) asked about section 13.6 (option for waiver in the Procurement Policy) which Valerie Seidel replied it was informal criteria that could be waived only if the Consortium voted to do so. Larry Jones (Walton) said that 13.12.5 in the Procurement Policy seemed subjective due to the use of "may" instead of "shall". Valerie Seidel commented that they could change the language to "shall". Larry Jones (Walton) commented on page 186 of the policies and asked if the Consortium was considered a political entity to which Lynn Hoshihara replied that the Consortium is considered an entity created by an interlocal agreement pursuant to Chapter 163. Commissioner Jack Mariano (Pasco) asked about page 28 section 11.4 who would review the procurements. Valerie Seidel (The Balmoral Group) replied that a committee would be assigned similar to the past audit review process. Commissioner John Meeks (Levy) made the motion to approve the policies with the changes pointed out, Commissioner Chris Constance (Charlotte) seconded adding the note of a spellcheck on page 5. All in favor, none opposed.

ACTION: APPROVED

Agenda Item #6a – Officer Elections Briefing

Chairman Robinson (Escambia) recognized Lynn Hoshihara (NGN) who reminded the board of the voting process for the 2019 calendar year. The election will be held at the first meeting of 2019 which was currently scheduled for January 31, 2019. Nominations would need to be submitted to the General Manager by January 10, 2019 with written approval by their respective Board of County Commissioners received by January 31. No action was required at this time. Another reminder would be sent out in January. Chairman Robinson(Escambia) noted that he would not be running for chair this election.

Agenda Item #6b – Termination of ESA's Agreement for Consultant Services

Lynn Hoshihara (NGN) brought to the board a request to terminate ESA's agreement for Consultant Services upon receipt of outstanding items pursuant to the contract agreement. ESA has requested their agreement be terminated in writing on or before December 31 subject to delivery of any remaining public records by the ESA Consultant Team. Commissioner Betsy Barfield (Jefferson) asked for a waiver in the contract that excluded ESA from providing services on Pot 3 monies. She asked for it to be considered at the next meeting. Commissioner Wayne Dukes (Hernando) made the motion to approve the termination of ESA's contract, Scott Carnahan (Citrus) seconded. All in favor, none apposed.

ACTION: APPROVED

Agenda Item #6c – Review of The Balmoral Group's Agreement for Management Services

Lynn Hoshihara (NGN) brought to the board a discussion about renewing Balmoral Group's contract for Management Services which was set to expire on April 30, 2019. She noted that the contract is up for automatic one year renewals unless the Board provides 30 days' notice to Balmoral of non-renewal. Regardless of the option Balmoral's agreement would need to be amended to include the pre award costs which were not included in the original contract. Going out to RFP would delay the process at this stage and the timeline discussed by Mr. Dourte could not be accomplished. Chairman Robinson (Escambia) commented that they are in the middle of the process and if Balmoral is stopped the Consortium would not be able to go forward as planned. They must finish what they were doing. Commissioner Chris Constance (Charlotte) commented that they can renew the contract but also wanted to look into going out to RFP at the same time. Commissioner David Edwards (Wakulla) commented that Balmoral had made efforts to change and should be given another year, otherwise the Consortium stops dead in their tracks and he made the motion to approve Option 1 for a one-year renewal of The Balmoral Group's contract. Commissioner John Meeks (Levy) seconded the motion. Commissioner Scott Carnahan (Citrus) asked what the penalty would be if Balmoral did not get the work done in time and wanted a financial penalty included. Lynn Hoshihara replied that the agreement could be terminated at any time with a 30-day notice of termination from the Board. Commissioner Chris Constance (Charlotte) asked who would create the bid package for the RFP. Lynn Hoshihara replied that General Counsel would be involved because the current Manager could not be involved in drafting the scope unless they opted not to compete. Commissioner Chris Constance (Charlotte) advised that a mechanism should be developed soon to prepare development of an RFP for Consortium Management. Commissioner Mariano (Pasco) supported the idea of a penalty clause in the contract and commended management's recent efforts in policy development. Warren Yeager (Gulf) agreed that an RFP would be beneficial to identify the best organizations to support efforts in the implementation phase, but did not want to slow the current process down. Larry Jones (Walton) reminded the group that the existing 30-day termination clause would be maintained in a new contract; so that the renewal is similar to a 30-day contract. Seconded by Commissioner Wayne Dukes (Hernando). All in favor, none opposed.

ACTION: APPROVED

Agenda Item 14 – Public Comment

None

New Business

Lynn Hoshihara (NGN) said that she was asked to provide a guidance document regarding conflict of interest and ESA's contract. She said that the ESA Consultant Team is only conflicted from the 69 projects in the SEP and working directly with the consortium on implementation. No guidance document was required.

Commissioner Chris Constance (Charlotte) brought a new business item. He wanted to put a discussion on the next Agenda about the 23 Gulf Consortium Counties creating a coalition of counties to work on issues such as red tide/water quality. Commissioner Jack Mariano (Pasco), Commissioner John Meeks (Levy), and Commissioner Charles Hines (Sarasota) were also interested and discussed how to figure out where the remaining 25% of Triumph funds went. Warren Yeager (Gulf) commented that it had to be related to economic development to get the money and Commissioner Jack Mariano (Pasco) said that would be easy due to the recent red tide event, which created many economic issues. Commissioner Joseph "Smokey" Parrish (Franklin) commented that they should not focus on what happened to the money already distributed and focus instead on the next phase of funds coming in, which Chairman Robinson (Escambia) agreed with. Commissioner Chris Constance (Charlotte) also commented about the FAC Water Quality Committee that one of the Gulf Consortium Board Members should be on that committee.

Agenda Item 15 – Next Board Meeting
The next board meeting is to be held at the Commission Chambers in Tallahassee on Thursday January 31.

There being no further business, the Committee adjourned at 6:25 pm (EDT).

Respectfully submitted,

Grover Robinson
Chairman

AGENDA ITEM 4

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 4
Officer Elections for 2019

Executive Summary:
Election of the officers of the Gulf Consortium for 2019.

Background:
The elections of 2019 are to be held at the Consortium's Board meeting on January 31, 2019. The three elected offices include: Chairman, Vice Chairman and Secretary/Treasurer. The following is a summary of the election process as adopted by the Board:

- Self-nomination for one or more of the offices sought;
- Notification to the Consortium Manager by January 10, 2019;
- Written approval by the respective Board of County Commissioners of the Director's candidacy provided to the Manager prior to the election;
- Re-election of an incumbent officer allowed;
- Election by written ballot, with a majority vote required of the Directors present and voting; and,
- Newly elected officers take office immediately and serve until the election of new officers in 2020.

The three newly-elected elected officers are required to select two additional Directors to serve as "at large," voting members of the Executive Committee.

Analysis:
The Interlocal Agreement establishes the following elected officers: Chairman, Vice-Chairman and Secretary-Treasurer. These officers must be Directors and shall each serve a one-year term, unless reelected. The duties of the Chairman include signing documents, calling meetings of the Board and taking such other actions and having such other powers as provided by the Board. *See, Sec. 3.04, 3.05, 3.07.* The Vice-Chairman is authorized to act in the absence or otherwise inability of the Chairman to act. *Sec. 3.05.* The Secretary-Treasurer is responsible for the minutes of the meetings and shall have other powers approved by the Board. *Sec. 3.05.* The Interlocal Agreement also provides that the Chairman, Vice-Chairman and Secretary-Treasurer shall select two other Directors who, together with the elected officers, shall constitute an Executive Committee.

Pursuant to the procedure adopted by the Board in November 2012 (copy attached), the Board is required to annually elect three officers from among the Directors at the first meeting of the year.

The nomination period for election to the Executive Committee closed on January 10, 2019. The following individuals have self-nominated and are running for the offices indicated in 2019:

Candidate **County** **Office(s) Sought**

Director name	County	Office(s) Sought
Warren Yeager	Gulf	Chair
Wayne Dukes	Hernando	Vice Chair
Joseph "Smokey" Parrish	Franklin	Secretary/Treasurer
Chris Constance	Charlotte	Chair, Vice Chair, or Secretary/Treasurer
Scott Carnahan	Citrus	Chair, Vice Chair, or Secretary/Treasurer
John Meeks	Levy	Vice Chair, or Secretary/Treasurer
Jack Mariano	Pasco	Chair, Vice Chair, or Secretary/Treasurer
David Edwards	Wakulla	Chair, Vice Chair, or Secretary/Treasurer

Options:

(1) Elect the Chair, Vice-Chair and Secretary-Treasurer; or
(2) Board direction.

Fiscal Impact:

None.

Recommendation:

None.

Attachment:

November 2012 adopted election process.

Prepared by:

Dan Dourte
The Balmoral Group
January 21, 2019

Gulf Consortium Process for Election of the Chairman, Vice Chairman and Secretary-Treasurer

Adopted by the Board of Directors in November 2012.

Commencing with the elections in 2013 and applicable annually thereafter, the following election process is approved:

- **Date of Election.** Election of officers shall be held annually at the Board's first meeting of the calendar year (the "Election Meeting").
- **Term of Office.** An officer shall take office immediately upon election. The term of office shall end upon the election of the officer at the following year's Election Meeting of the Board
- **Self Nomination and Notification; Timelines**.-- Any Director wishing to run for an elected office shall formally declare his/her candidacy by the Qualifying Date which is either December 15 of the year before the term begins, or such other date, as set by the Manager, that is not less than 20 days prior to the Election Meeting. The Manager shall provide notice to each Director of the Qualifying Date at least 45 days before the Election Meeting. The Director's declaration of candidacy must be in writing, stating the office or offices sought, and be received by the Manager on or before the Qualifying Date. The Director shall send the declaration of candidacy to the Manager by either (a) express delivery, return receipt requested, or (b) via electronic mail (email). The Manager shall acknowledge receipt of emails declaring candidacy within 24 hours of receipt. However, it shall be the responsibility of the Director declaring his or her candidacy to assure that the email has been received by the Manager on or before the qualifying date.
- **Board of County Commissioners Approval**.-- On or before the Election Meeting, a Director who is a candidate for office shall cause to be delivered a letter or resolution to the Manager from that Director's board of county commissioners stating its support for that Director's candidacy for an officer of the Gulf Consortium.
- **Order of Election and Written Ballot**.-- At the Election Meeting of the Board of Directors, the Manager shall conduct the election of the offices for the Chairman, Vice-Chairman and Secretary-Treasurer in that order. Qualified candidates shall be given an opportunity to address the Directors for three minutes each. After the candidates' presentation for the respective office, the Interim Manager shall issue a written ballot for each Director to vote his or her preference for that office.
- **Majority Vote Requirements**.-- A majority vote of the Directors present shall be required for the election of the officer. Voting shall continue until a majority vote of the Directors present is achieved for a candidate for the office. In case of a tie, the Interim Manager shall call for another vote for those tied until the office is filled by a majority vote of the Directors present.

AGENDA ITEM 5

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 5
Gulf Consortium History and Status

Summary:

A request was made to provide some basic background information on the history and current status of the Gulf Consortium. A short presentation was prepared to help new or returning Directors familiarize themselves with the Consortium. **No action required.**

Attachment:

Gulf Consortium - history and status - Jan 2019

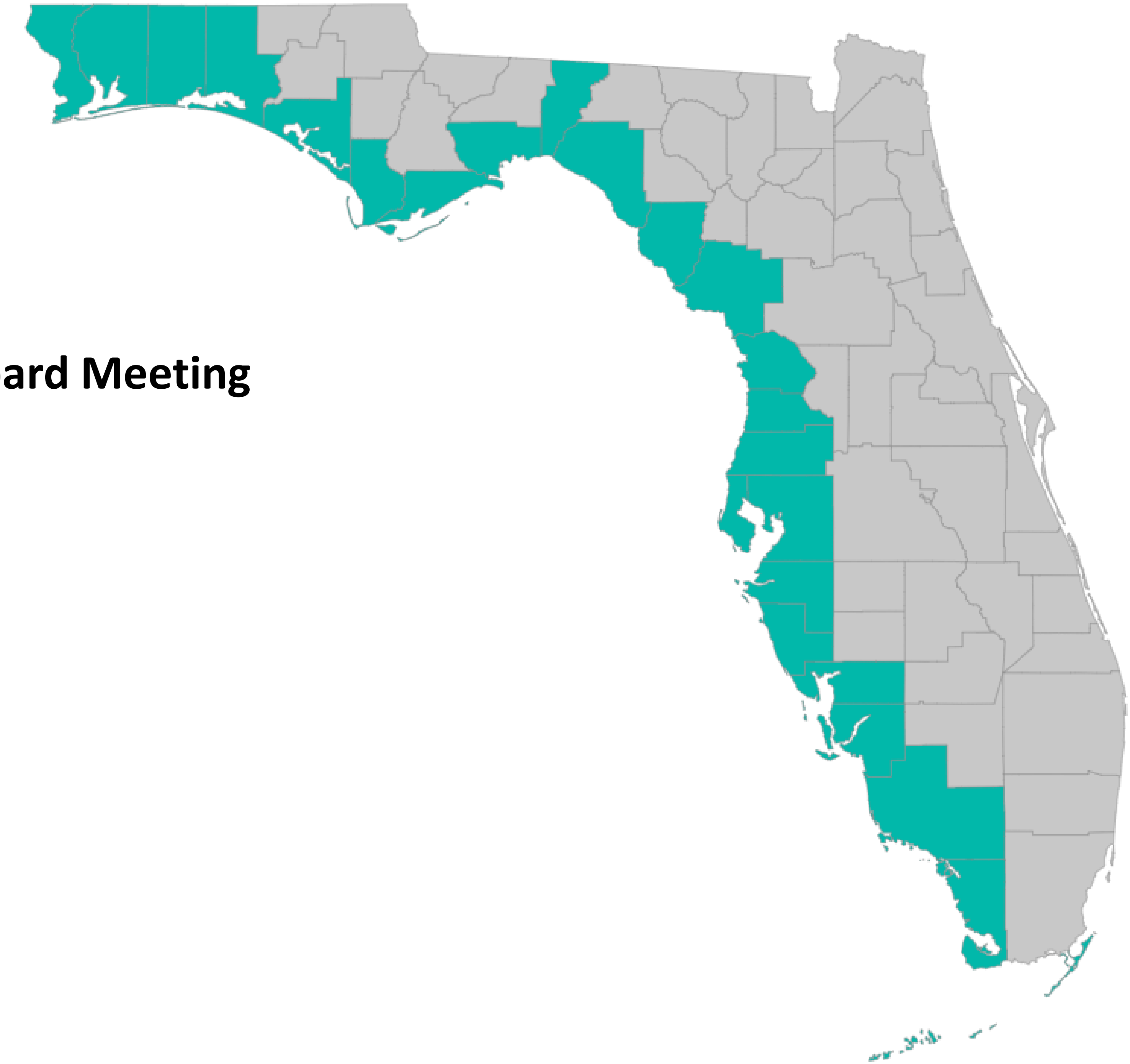
Prepared by:

Dan Dourte
The Balmoral Group, Manager
On: January 21, 2019

GULF CONSORTIUM

- History and Current Status

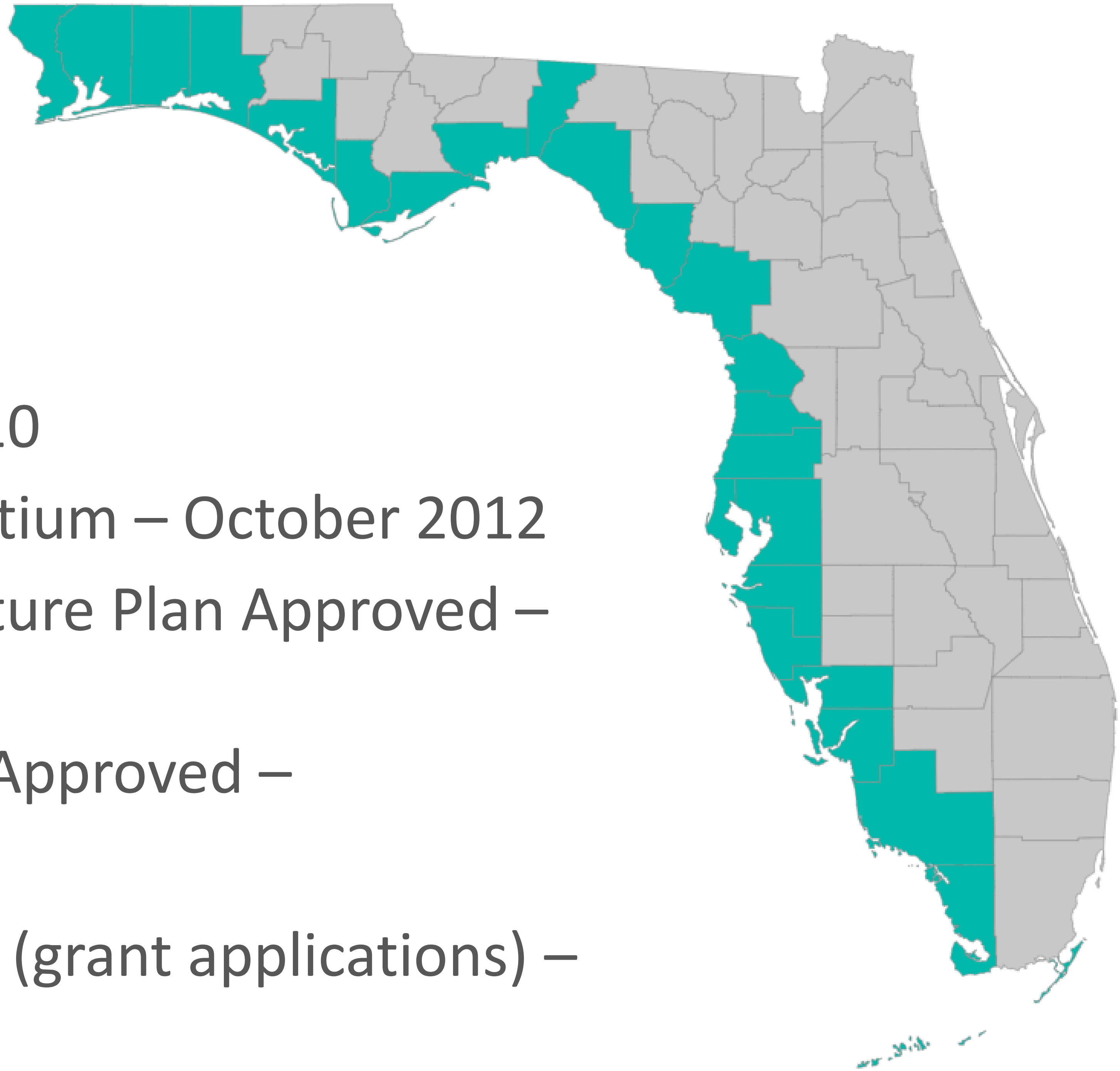
January 31, 2019 Consortium Board Meeting



Key dates

- DWH oil spill – April 2010
- Established Gulf Consortium – October 2012
- Stand-up State Expenditure Plan Approved – Apr 23, 2018
- State Expenditure Plan Approved –

  Sep 27, 2018
- Project Implementation (grant applications) – in progress



Establishment of Gulf Consortium

- Special district created by Inter-local Agreement among Florida's 23 Gulf Coast counties – October 2012
- Charge: plan for and implement the projects funded by the Spill Impact Component (Pot 3)
- FAC agrees to provide interim management services until management firm is procured

SEP development

- Decision to distribute Florida's Spill Impact Component funds equally among the 23 member counties, and to implement a "county-driven" approach whereby each of the counties would self-determine their priority projects
- Feb 2015 to Sep 2018
- https://www.gulfconsortium.org/state-expenditure-plan

- Prepared by the Gulf Consortium for the State of Florida with assistance from Environmental Science Associates, Langton Consulting, Brown and Caldwell, and Research Planning, Inc.

Implementation Readiness – stand-up activities

- The Balmoral Group was hired to provide management services – April 2017
- Preparing the Gulf Consortium for project implementation
  - Updating the Organizational Self Assessment
  - Developing policies and procedures
  - Subrecipient training
  - Grant management capacity building
- Feb 2018 to Present

- Guidance material on grant applications:

https://www.gulfconsortium.org/grant-resources

- Policies and procedures

https://www.gulfconsortium.org/policies-and-procedures

Project Implementation and Management

- Preparation/oversight/management of project implementation grants
- 2019 – 2034
- Gulf Consortium management in collaboration with County personnel
- Possible Consortium-procured consultants to assist Counties with implementation (engineering, feasibility, etc.)

Project Implementation and Management

AGENDA ITEM 6

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 6
RESTORE Update

<u>Summary</u>:
Mr. Ben Scaggs, RESTORE Council Executive Director, will provide a RESTORE Council overview and update verbally at the January 31, 2019 Board Meeting.

<u>Attachment:</u>
None

<u>Prepared by</u>:
Dan Dourte
The Balmoral Group, Manager
On: January 11, 2019

AGENDA ITEM 7

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 7
Manager's Report

Statement of Issue:

Presentation of the Manager's report. For information only; no action is required.

Background:

The Manager's report will be given verbally at the Board Meeting on January 31, 2019.

Attachments:

7a. None
7b. Planning Grant Status Update
7c. Financial Statements
7d. Bank Signature Card resolution

Prepared by:

The Balmoral Group, Manager
On: January 21, 2019

AGENDA ITEM 7b

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 7b
Manager's Report
Planning Grant Update: Status of Planning Grant Award and Work Orders

Statement of Issue:

Presentation of Work Orders approved to-date and a comparison of the amount encumbered with respect to the Planning Grant Award. The Planning Grant expired on June 30, 2018, prior to approval of the final SEP, and a No-Cost Time Extension was filed with RESTORE Council to accommodate payment of costs incurred subsequent to the Grant expiration date. For information only; no action is required.

Status of Payments to Date:

To date, eighteen payment requests for all consulting services totaling $2,875,522 have been submitted to Council and paid.

The Consortium submitted its most recent Planning Grant Financial Progress Report on, April 30, 2018. The next, and final, Financial Progress Report is expected to be submitted by February 9, 2019.

Out of the grant award, the Consortium can pay for some of the costs it incurs for its meetings: Audio-Visual, Information Technology, meeting space, etc. These costs are incurred on a meeting-by-meeting basis.

Meeting AV/IT Reimbursements **$29,651**
(Incurred between 8/22/14 – 11/9/18)

The Planning Grant also provided for auditor expenses at $25,000 per year, of which $6,000 was expended under the grant. The following table summarizes the grant budget as compared to Consortium-approved and grant-fundable contracts and payments to date:

	Grant Award	**ESA Contract From Grant**	**NGN Contract from Grant**	**TBG Contract from Grant**	**Auditor**	**AV / IT**
Contract Amounts	$4,640,675	$2,722,780	$180,000	$120,000	$ 50,000	$72,000
Work Orders Approved		$2,600,598	--	--	$18,000	--
Payments to Date	$2,875,522	$2,600,454	$157,980	$81,437	$6,000	$29,651
Invoices Pending		--	--	--	--	--
Balance to be returned to funding pool	**$1,765,153**	**$144**	**$23,795**	**$38,563**	**$44,000**	**$45,431**

The Balance line in the table describes the remaining, unencumbered funds in the Planning Grant which will revert to the Consortium's general pool of funding for SEP project implementation.

The Current Balance of the Trust Fund is $74,182,249, which represents the Available Trust Funds of $77,057,771 less Planning Grant funds of $2,875,522. The next payment of $16,713,931 is expected to be deposited into the Trust Fund by April 4, 2019.

Prepared by:

William Smith
The Balmoral Group, Manager
On: January 13, 2019

AGENDA ITEM 7c

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 7c
Manager's Report -- Financials

Statement of Issue:
Presentation of the Manager's report. For information only; no action is required.

Background:
The Manager's report will be given verbally at the Board meeting on January 31, 2018.

Attachments:
Financial Statements through December 31, 2018.

Prepared by:
William Smith
The Balmoral Group, Manager
On: January 21, 2019

Gulf Consortium
Balance Sheet
As of December 31, 2018

	Dec 31, 18
ASSETS	
Current Assets	
Checking/Savings	
Seaside Bank (Operating)	210,295.94
Wells Fargo Account (Grant)	354.08
Total Checking/Savings	210,650.02
Accounts Receivable	
Gen - Fund Accounts Receivable	16,540.00
Planning Grant Receivable	141,631.25
Total Accounts Receivable	158,171.25
Total Current Assets	368,821.27
TOTAL ASSETS	**368,821.27**
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable - Grant	140,338.75
Accounts Payable	105,772.70
Total Accounts Payable	246,111.45
Total Current Liabilities	246,111.45
Total Liabilities	246,111.45
Equity	
Unrestricted Net Assets	132,345.78
Net Income	-9,635.96
Total Equity	122,709.82
TOTAL LIABILITIES & EQUITY	**368,821.27**

Gulf Consortium
Profit & Loss
October through December 2018

	General Fund	SSEP Grant	TOTAL
Income			
County Dues Funding	70,025.00	0.00	70,025.00
Total Income	70,025.00	0.00	70,025.00
Expense			
Legal	11,660.30	39,875.00	51,535.30
Management Fees	24,651.25	0.00	24,651.25
Meeting Expense	2,676.03	0.00	2,676.03
Bank Service Charges	623.38	0.00	623.38
Special District Fees	175.00	0.00	175.00
Total Expense	39,785.96	39,875.00	79,660.96
Net Income	**30,239.04**	**-39,875.00**	**-9,635.96**

AGENDA ITEM 7d

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 7d
Update Gulf Consortium Bank Account Signature Cards

Statement of Issue or Executive Summary:
Update Gulf Consortium bank account signature cards and corporate resolutions.

Background:
With the Chairman of the board changing, bank accounts will need to be updated to reflect appropriate personnel under the Chairman. The Balmoral Group will maintain the existing account with Wells Fargo, which serves as the conduit for federal funds. The Balmoral Group will also maintain the Operating account into at Seaside National Bank & Trust. Accordingly, new signature cards and corporate resolutions will need to be prepared for both accounts.

The complete list of updated signers on account(s) includes:

Wells Fargo Account

- Valerie Seidel
- Craig Diamond
- New Chairman

Seaside Bank Account (New Operating Account)

- Valerie Seidel
- Craig Diamond
- New Chairman

Both Wells Fargo and Seaside National Bank & Trust are Florida Qualified Public Depositors and authorized to hold public deposits.

Fiscal Impact:
Neutral.

Options:
(l) Authorize Balmoral Group staff to complete all tasks necessary to update accounts to reflect the following signers on both accounts:
(2) Provide other direction to staff.

Attachment:
Signature Cards Resolution

Recommendation:
Entertain a motion approving Option 1.

Action Taken:

Motion to: ______________________, Made by: __________________________;

Seconded by: _______________________.

Approved____; Approved as amended________; Defeated__________.

RESOLUTION 2019 - ____

A RESOLUTION OF THE GULF CONSORTIUM RELATING TO SIGNATURE AUTHORITY ON THE GULF CONSORTIUM'S EXISTING BANK ACCOUNTS WITH WELLS FARGO AND SEASIDE NATIONAL BANK & TRUST; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Gulf Consortium ("Consortium") has established bank accounts with Wells Fargo and Seaside National Bank & Trust, with signature authority on such accounts vested in the Chairman of the Consortium Board of Directors ("Board") and members of the Balmoral Group ("TBG"); and

WHEREAS, the Board is required to hold an annual election of officers each year in January; and

WHEREAS, the Board finds it necessary to adopt this Resolution updating the list of persons authorized to act as signatories for the transfer of Consortium funds from the above-listed accounts to reflect the Board's election of a new Chairman at its January 2019 Board meeting.

NOW THEREFORE, be it resolved by the Consortium, as follows:

Section 1. Authorized Signers on Consortium Bank Accounts.

The Consortium hereby approves the following individuals as authorized signers on its accounts:

Wells Fargo Account and Seaside National Bank & Trust Account

- Valerie Seidel
- Craig Diamond
-

Section 2. Effective Date.

This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE GULF CONSORTIUM, THIS 31ST DAY OF JANUARY, 2019.

GULF CONSORTIUM

ATTEST:

____

CHAIRMAN

____

SECRETARY

AGENDA ITEM 8

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 8
SEP Project Implementation Update

Summary:

Progress has been made to advance the Gulf Consortium to be ready for project implementation. Some key items are listed below:

- Policies and procedures delivered to RESTORE Council
- Updated OSA delivered to RESTORE Council
- Grant management system selection/purchase
- Coordination with RESTORE Council and County personnel on grant application requirements: presentations and phone calls
- Prepared draft SEP amendment for Manatee County project changes
- Improved guidance materials and resources
  https://www.gulfconsortium.org/grant-resources
- Improved project data dashboard
  http://datavisual.balmoralgroup.us/GulfConsortiumProjects
- First project implementation grants received

Background:

At the November 29, 2018 Consortium Board meeting, a schedule and process was proposed for which projects can proceed toward implementation. These guidelines for project implementation were improved. The summary above (and the slides attached) document the progress of SEP project implementation.

Attachment:

SEP Project Implementation Update - attached

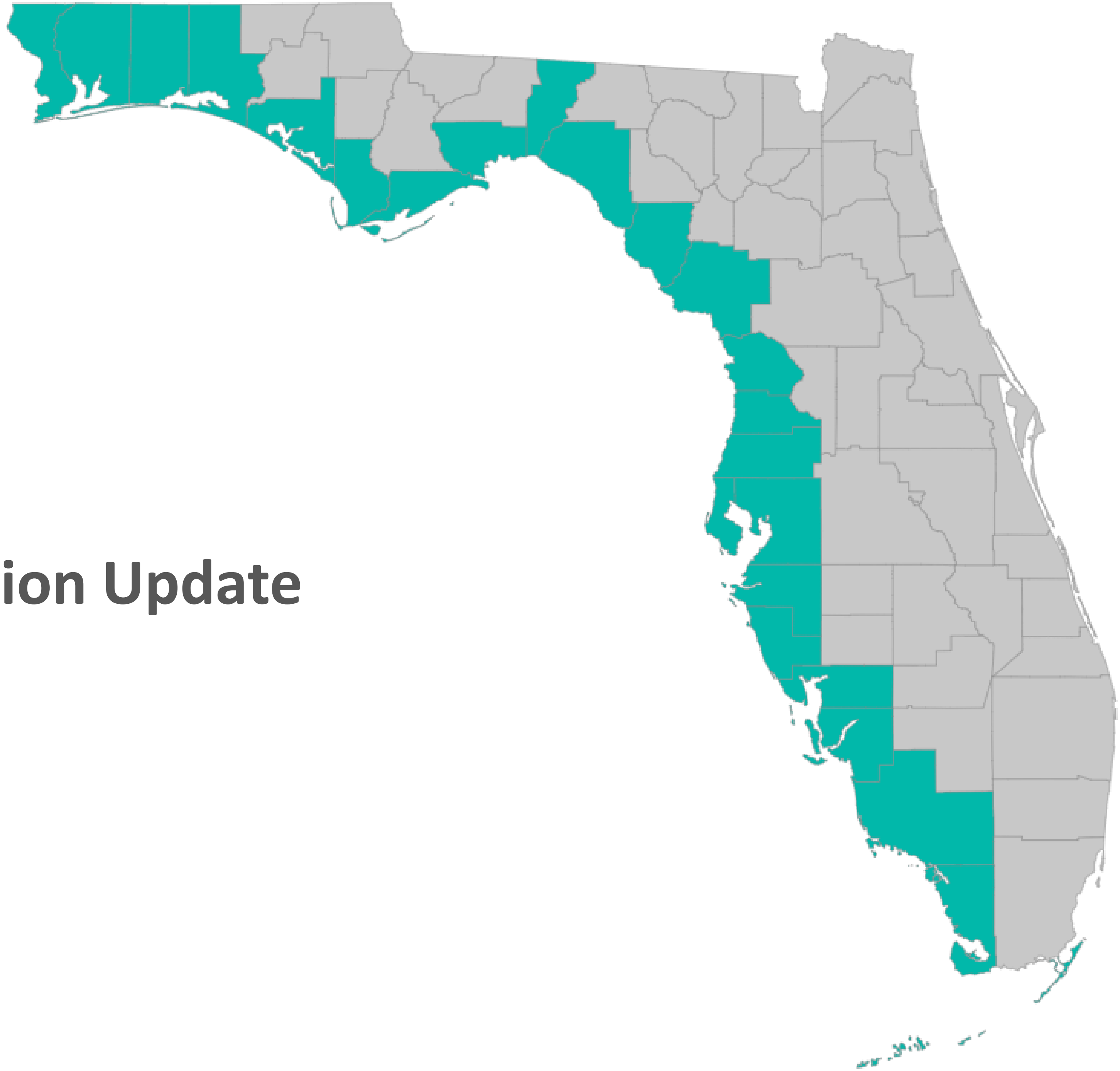
Prepared by:

Dan Dourte
The Balmoral Group
On: January 21, 2019

GULF CONSORTIUM

SEP Project Implementation Update

January 31, 2019 Board Meeting



SEP Project Implementation

Progress

- Policies and procedures delivered to RESTORE Council
- Updated OSA delivered to RESTORE Council
- Grant management system selection/purchase
- Coordination with RESTORE Council and County personnel on grant application requirements: presentations and phone calls
- Prepared draft SEP amendment for Manatee County project changes

SEP Project Implementation

Progress

- Improved guidance materials and resources

https://www.gulfconsortium.org/grant-resources

- Improved project data dashboard

http://datavisual.balmoralgroup.us/GulfConsortiumProjects

- First project implementation grants received

Grant Application Requirements and Submission

https://www.gulfconsortium.org/grant-resources

Guidance Documents

Draft SEP Project Grant Application Guidance Document

Grant Application Checklist

Frequently Ask Questions

Data Management Plan Guidance with examples - from RESTORE Council

Observation Data Plan Guidance with examples - from RESTORE Council

Metrics Choices Table - from RESTORE Council

SEP Project Data Dashboard

http://datavisual.balmoralgroup.us/GulfConsortiumProjects

Presentations

Best Available Science and DMP and ODP training slides - from RESTORE Council

Gulf Consortium - SEP Implementation - DMP and ODP - 12/19/2018

Gulf Consortium - SEP Projects - Grant Application Guidance and Timelines - 12/3/2018

Subaward Application for Florida SEP Projects

This form collects information on projects in Florida's State Expenditure Plan

County

Escambia

County point of contact name *

First Last

County point of contact email *

County point of contact phone *

####

Address *

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

United States

Country

Project Information

Project Name *

Project Number in approved SEP *

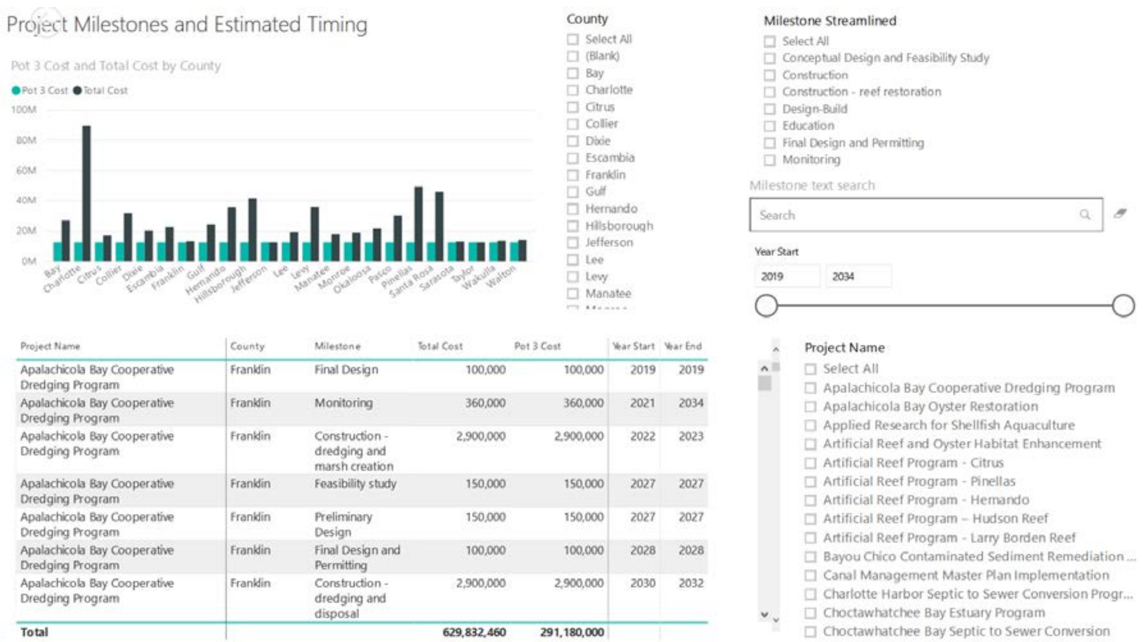
Project Data Dashboard

Dashboard for Project Data

State of Florida
STATE EXPENDITURE PLAN

milestones, start years, cost, goals, funding sources

http://datavisual.balmoralgroup.us/GulfConsortiumProjects



Interface for project details

GOAL:
Efficient, accurate grant preparation

- Better, faster decisions on grant timing, readiness, bundling
- Transparent tracking of progress and changes

AGENDA ITEM 9

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 9
Amended FY 19 Budget for the Gulf Consortium

Summary:

Request for the Board to approve an Amended FY 18-19 Budget reflecting a higher dollar amount for project funding.

Background:

On September 27, 2018, the operating budget for Fiscal year 2018-2019 was approved based on initial year draw requests and SEP estimates. During the SSEP Grant application process, information received from Council indicated that full project grants, rather than milestone draws reflected in sequencing, should be included in grant application packages. Based on the new information, Board approval was granted on November 29, 2018 to submit up to $79.8 million in grant applications to Council. To ensure the Consortium's grant application effort is reflected in the approved fiscal operating budget, the budget should be revised to reflect the higher project grant funding. No other change is proposed.

Analysis:

Table 1 reflects the budget approved at the September 2018 board meeting and the proposed revision to reflect costs.

Table 1. Budget Summary by cost category.

Cost Category	Approved 2018-19 Budget	Amended 2018-19 Budget
SSEP - One Time Expense	221,038	221,038
SEP Expenses (project funding)	10,357,470	79,783,376
General fixed and variable Operating Expenses	225,070	225,070
Total	10,803,578	80,229,484

Funding sources are summarized in Table 2.

Table 2. Budget Summary by Funding Category

Funding Source	Approved 2018-19 Budget	Amended 2018-19 Budget
Stand-Up SEP Grant	221,038	221,038
Florida SEP Grant	10,477,540	79,783,376
County Funding	70,025	70,025
Total	10,768,603	80,074,439

Options:

Option #1, Approve the Amended FY 19 Budget
Option #2, Board Direction

Recommendation:
Board Approval of Option #1.

Attachment:
None.

Prepared by:
William Smith
The Balmoral Group, Manager
On: January 4, 2019

Action Taken:

Motion to: _____________________, Made by: _________________________;

Seconded by: ______________________.

Approved____; Approved as amended_______; Defeated_________.

AGENDA ITEM 10

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 10
Release SEP amendment for public comment

Summary:

An amendment to the SEP was prepared to accommodate a new project in Manatee County.

Background:

An amendment is required for State Expenditure Plans for if there is a new project being proposed. A new SEP project (Kingfish Boat Ramp) was proposed by Manatee County. Project description and rational have been prepared by county personnel. A standalone SEP amendment was prepared which describes only this project and the necessary adjustments in costs and timing of remaining Manatee County projects.

Analysis:

A new project is proposed for inclusion in the Florida SEP: Kingfish Boat Ramp in Manatee County. The expected Pot 3 funding request is $4.5M. Two projects in Manatee County are proposed to be removed from the SEP: project 18-3 Preserve Management Plans and project 18-8 Coastal Watershed Management Plans. The Pot 3 cost requests of 4 of the original SEP projects in Manatee County have been revised lower to accommodate the cost of the Kingfish Boat Ramp. Costs and timing tables are detailed in the attached SEP amendment.

An SEP amendment is required if there is either a change in scope (i.e., new project activity or increased size of project) or there are revisions requiring an increase in funds for a new activity or bigger project.

The following describes the general process for an SEP amendment:

1) Prepare the project narrative with sections corresponding to those in the SEP, and identify the projects proposed to be removed from the SEP, along with a brief discussion of the rationale for the change,
2) Obtain approval from County BOCC for the proposed SEP project changes,
3) Provide the SEP amendment to RESTORE Council for preview (optional),
4) Present the SEP amendment to the Gulf Consortium with a request for action to make the SEP amendment available for public review,
5) Make the SEP amendment public with a forum to receive comments for a 45-day period,
6) Submit the SEP amendment to RESTORE Council after the 45-day comment period; this will include a statement of public participation and any necessary edits or responses to comments,
7) After RESTORE Council reviews and approves the SEP amendment, the applications for funding can be submitted – grant application materials can be developed while Council review proceeds.

Options:

Option #1, Approve the SEP amendment to be released for the 45-day comment period

Option #2, Board Direction

Recommendation:

Option #1.

Attachment:

Florida SEP Amendment 1 for Kingfish Boat Ramp - attached

Prepared by:

Dan Dourte
The Balmoral Group
On: January 21, 2019

Action Taken:

Motion to: ______________________, Made by: __________________________;

Seconded by: _______________________.

Approved____; Approved as amended_______; Defeated_________.

State of Florida

STATE EXPENDITURE PLAN – amendment 1 (January 2019)

Submitted Pursuant to the Spill Impact
Component of the RESTORE Act
33 U.S.C. § 1321(t)(3)

GULF CONSORTIUM

Executive Summary

This first amendment to the State Expenditure Plan (SEP) for the State of Florida, prepared by the Gulf Consortium (Consortium) in collaboration with Manatee County describes a new, proposed project not presented in the original SEP. This project, Kingfish Boat Ramp, will improve recreational access and community resilience. Additionally, two projects are being removed from the original SEP to allow for sufficient funding for the Kingfish Boat Ramp. Project 18-3 Preserve Management Plans and project 18-8 Coastal Watershed Management Plans are being withdrawn from the SEP. These will be funded by other means outside of Spill Impact Component funds.

State Certification of RESTORE Act Compliance

In accordance with Section 5.2.2 of the SEP Guidelines provided by the Council, the Gulf Consortium hereby certifies the following:

- All projects, programs, and activities included in the Florida SEP amendment are eligible activities as defined by the RESTORE Act.
- All projects, programs, and activities included in the Florida SEP amendment contribute to the overall economic and/or ecological recovery of the Gulf Coast.
- The FL SEP amendment takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Comprehensive Plan.
- Issues crossing Gulf State boundaries have been evaluated to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by the Florida SEP.
- All projects, programs, and activities included in the SEP are based on and/or informed by the Best Available Science as defined in the RESTORE Act.

Public Participation Statement

To be completed following public comment period

Financial Integrity

The Consortium is the legal entity in Florida responsible for implementation of this Florida SEP amendment, and will be the direct recipient of grant funds disbursed by the Council to the State of Florida pursuant to the Spill Impact Component of the RESTORE Act. The full SEP (https://www.gulfconsortium.org/state-expenditure-plan) should be referred to for additional detail on the financial integrity of the Gulf Consortium.

Overall Consistency with the Goals and Objectives of the Comprehensive Plan

The process for goal development and the consistency of Florida SEP activities with the Council Comprehensive Plan is described in detail in the Florida SEP. This SEP amendment is fully consistent with, and furthers, the Council's Comprehensive Plan. The projects, programs, and activities proposed in this Florida SEP amendment were nominated through a county-driven process.

MANATEE COUNTY

Kingfish Boat Ramp Renovation and Expansion Project

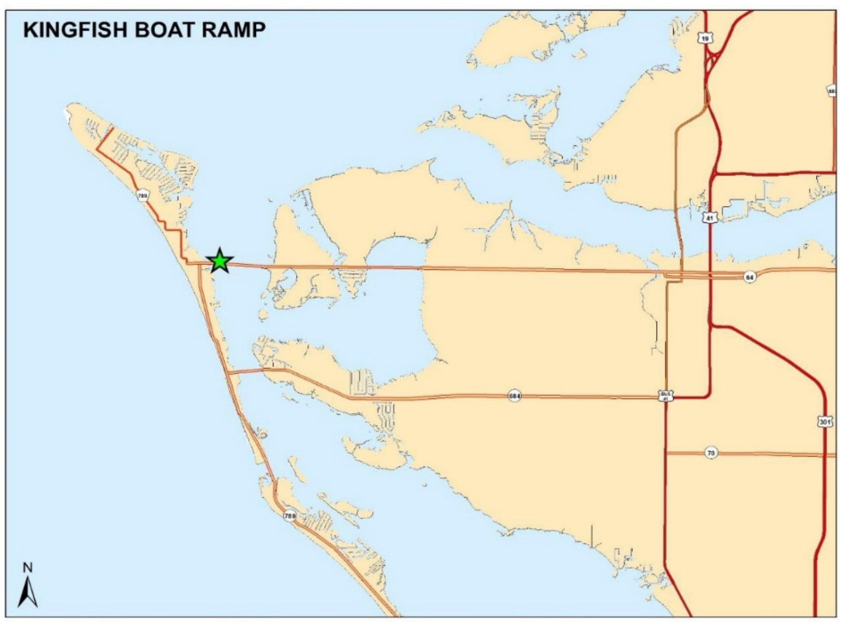
PROJECT NO. 18-10

Proposed Projects, Programs, and Activities

Project Description

Overview and location

This project involves the complete renovation and expansion of the existing Kingfish Boat Ramp facility located on the north side of Manatee Avenue on the western landing of the Anna Maria Bridge in Manatee County. Location shown below.



Need and Justification

Kingfish Boat Ramp is the most heavily utilized boat ramp in Manatee County. The facility's popularity is due, in large part, to its ideal location on Anna Maria Sound in addition to trailer parking capacity and suitability for larger vessels. Kingfish Boat Ramp has served the steadily increasing number of boaters in Manatee County since the 1960's. Major structural components of the facility include over 600-feet of concrete seawall, 350-feet of wooden docks and a 55-foot wide concrete launch ramp comprised of 3 launch lanes and a floating finger dock; all of which are nearing the end of their serviceable lifespan. Emergency repairs at the Manatee County Kingfish boat ramp have uncovered severe structural deficiencies in the existing infrastructure and a decision has been made to commit to proceed toward a total rebuild and capacity expansion of the ramp in the estimated cost range of $4.5million

Purpose and Objectives

The main objective of this project is the improvement of coastal access, tourism promotion and recreational fishing. This proposal involves the expansion of Manatee County's Kingfish Boat Ramp facility to meet required needs of extended infrastructure lifespan, operational efficiency and capacity to meet the objective goals. Increased operational efficiency will be achieved through a four single-lane design to shorten launching and landing time for vessels.

Project Components

The project is currently about to enter the engineered design phase, which will involve further refinement of the conceptual plan to expand the current three lane launch to four individual lanes, each separated by a finger dock. Individual launch lanes increase capacity and efficiency by allowing boaters to launch and land vessels separately without being affected by other vessels or vehicles.

The docks will be constructed with durability and longevity in mind, utilizing concrete piling and composite decking. The project also involves planning for the eventual expansion of trailer parking to the east. Manatee County is currently coordinating with the Florida Department of Transportation on plans for this expansion when the western landing of the new Anna Maria/Manatee Avenue Bridge is shifted to the south.

The plans also call for the resurfacing of the parking lot to better control stormwater runoff and reduce maintenance.

Contributions to the Overall Economic and Ecological Recovery of the Gulf

The Kingfish Boat Ramp facility plays a significant role in the water-access based economy of Manatee County and is heavily utilized used by local residents, neighboring county residents, tourists and various commercial operations offering charter fishing, eco-tourism, recreational boat rental, sightseeing, kayak rental and other services. Kingfish Boat Ramp is strategically located and provides easy access to many desirable destinations including the Gulf of Mexico, Tampa Bay, Manatee River, Intracoastal Waterway, Palma Sola Bay and Sarasota Bay.

Eligibility and Statutory Requirements

This project is consistent with, and addresses, the following RESTORE Act eligible activities:

- Eligible Activity 6: Infrastructure projects benefitting the economy or ecological resources, including port infrastructure.
- Eligible Activity 10: Promotion of Tourism in the Gulf Coast Region, including recreational fishing (primary).

Comprehensive Plans Goals and Objectives

This project is consistent with, and addresses, the following Comprehensive Plan Goals:

- Goal 5: Restore and Revitalize the Gulf Economy (primary)
- Goal 3: Restore and Protect Living Coastal and Marine Resources

This project is consistent with, and addresses, the following Comprehensive Plan Objectives:

- Objective 8: Restore, Diversify, and Revitalize the Gulf Economy with Economic and Environmental Restoration Projects (primary)
- Objective 3: Protect and Restore Living Coastal and Marine Resources

Implementing Entities

Manatee County will be the sole implementing entity and grant sub-recipient responsible for the design, construction, and success monitoring of the project.

Best Available Science and Feasibility Assessment

As discussed, the Kingfish Boat Ramp facility has existed since the 1960's as an extremely popular and heavily utilized public water access point.

A Best Available Science (BAS) review is required for programs and projects that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands and economy of the Gulf Coast. The primary goal of this program is recreational use and tourism promotion; therefore, BAS is not applicable. Any impacts associated with the construction of recreational amenities will be addressed during regulatory permitting. This project is considered feasible with respect to the ability to: (1) secure necessary property agreements and permits (2) construct the proposed recreational improvements; and (3) operate and maintain the improved infrastructure over the long term.

Risks and Uncertainties

No significant risks or uncertainties have been identified that would preclude conducting the project. Coastal park and recreational amenities are at risk for damage by tropical storms and sea-level rise; however, the proposed recreational improvements will consider coastal storm hazards as appropriate.

Success Criteria and Monitoring

As this project addresses improvement of boater access to both the internal waterways of Manatee County and the Gulf of Mexico, success criteria will be developed for the following:

- Recreational amenities improved

In the project grant request, a monitoring plan to document, describe and quantify the improvement will be provided with the as-built drawings.

Milestones and Schedules

	2019	2020	2021	2022
Kingfish Boat Ramp ($4.5M)	1	2	3	4
Engineering, Design & Permitting				
Construction		4,500,000		
Success Monitoring				

Budget and Funding Sources

Manatee County has developed a preliminary cost estimate for this project of $4,500,000. Manatee County is committed to allocating $4,500,000 of its share of the Florida Spill Impact Component to this project.

Engineering, design and permitting costs will be funded by the County's Florida Boating Improvement Program (FBIP), which results from the collection of vessel registration fees. The total costs of these efforts are not yet known.

Implementation

The newly proposed SEP project 18-10 Kingfish Boat Ramp is expected to proceed with implementation beginning in 2019. Project 18-3 Preserve Management Plans and project 18-8 Coastal Watershed Management Plans are being withdrawn from the SEP to allow for sufficient funding. Additionally, Spill Impact Component funding requests for several projects in the original SEP have been revised to lower amounts to accommodate the Kingfish Boat Ramp project. The complete changes in funding amounts and estimated timing are provided in the following table.

	YEARS FROM SEP APPROVAL																	
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	REVISED SEP project total	Original SEP project total
Total Allocation $12,660,000																		
Kingfish Boat Ramp ($4.5M) - 18-10																		
Engineering, Design & Permitting (local funding)																		
Construction		4,500,000																
Success Monitoring (local funding)																	$ 4,500,000	NA
Palmetto Green Bridge Fishing Pier Replacement - 18-5																		
Preliminary Design (local funding)																		
Final Design and Permitting (local funding)																		
Demolition of the old bridge					1,950,000													
Construction					1,156,698													
Monitoring							25,000	25,000									$ 3,156,698	$ 3,000,000
Applied Research for Shellfish Aquaculture - 18-6																		
Planning and research priorities																		
Design experiments			100,000															
Collect and anlyze data			50,000	50,000														
Technology transfer				25,000	25,000													
Monitoring					25,000	25,000											$ 300,000	$ 300,000
Portosueno Park Living Shoreline - 18-2																		
Preliminary Design		30,000																
Final Design and Permitting			45,000	45,000														
Construction				530,000														
Monitoring																	$ 650,000	$ 1,300,000
Manatee River Oyster Restoration Project - 18-1																		
Preliminary Design	20,000								214,545									
Final Design and Permitting	60,000									114,545	114,545							
Construction - restoration/barge shelling												300,000	235,000	235,000	250,000	250,000		
Monitoring										15,000	15,000	15,000	15,000	15,000	15,000	15,000	$ 1,898,635	2,628,090
Artificial Reef Program– Borden Reef - 18-4																		
Collect, prepare, and stage reef materials									75,000	75,000	200,000							
Transport material to permitted reef sites										732,500	200,000							
Monitoring										12,500	12,500	12,500					$ 1,320,000	$ 1,320,000
Coastal Preserve Trail and Boardwalk Enhancements - 18-7																		
Preliminary Design									60,000									
Final Design and Permitting										50,000	50,000	60,917	30,000	30,000	30,000	30,000		
Construction												3,150	3,150	3,150	3,150	3,150	$ 356,667	$ 956,667
Monitoring																		
Urban Park Stormwater Improvements - GT Bray Park - 18-9																		
Feasibility study and prliminary design												200,000						
Final Design and Permitting													25,500	25,500	25,500	25,500		
Construciton														42,000	42,000	42,000		
Monitoring															25,000	25,000	$ 478,000	$ 1,600,000
Revised cumulative 4 year totals				5,455,000				8,686,698				11,219,400				12,660,000	$ 12,660,000	$ 12,660,000
Original SEP 4 year totals				4,433,253				8,296,982				10,360,047				12,660,000		

Projects not funded using Pot 3 allocations

Preserve Management Plans ($280k) - 18-3	$ 280,000
Coastal Watershed Management Plans ($1.2M) - 18-8	$ 1,275,243

AGENDA ITEM 11a

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 11a
Contract Amendment for General Manager

Summary:

This agenda item requests Board approval of an Amendment to the Agreement between the Consortium and The Balmoral Group (TBG) for General Management Services to: (1) renew the Agreement for an additional one-year term through April 30, 2020; and (2) establish the terms pursuant to which TBG may be compensated for certain grant eligible services from grant funds. The Amendment is attached hereto as Attachment "1."

Background:

At the November 30, 2018 Board Meeting, the Board reviewed TBG's current Agreement for General Management Services ("Agreement"), which was scheduled to expire on April 30, 2019.

At such Board Meeting, General Counsel also informed the Board that following discussions with RESTORE Council staff, it was determined that the compensation structure of the Agreement was likely insufficient to fund TBG's efforts related to the SSEP and "standing up" the Consortium as a grant-eligible entity, and further would likely not be sufficient to allow TBG to effectively oversee, manage, and administer the SEP project implementation grants moving forward.

After Board discussion of several options, the Board directed General Counsel to prepare an Amendment extending the Agreement through April 30, 2020.

RESTORE Council staff and General Counsel have reviewed the proposed contract amendment and indicated it was in compliance with their requirements.

Analysis:

The Agreement currently provides for monthly fees not-to-exceed $8,588. Based on an anticipated reduction in administrative efforts following the initial two year term of the Agreement, the Agreement provides for monthly fees not-to-exceed $7,642 in subsequent years should the Agreement be renewed. As described above, this fee structure is insufficient to fund all efforts associated with "standing up" the Consortium and managing and overseeing more than $280,000,000 in Federal grant funds moving forward. The proposed Amendment addresses this issue by creating a separate fee structure governing grant-eligible services performed by TBG.

The Agreement retains the reduced monthly not-to-exceed amount of $7,642 for TBG's performance of all "general administrative services" that are not eligible for grant reimbursement, to be billed at a rate of $170 per hour.

Additionally, separate and apart from the compensation structure for general administrative services, the Amendment authorizes TBG to be compensated for grant-eligible management services it performs. TBG would be compensated at a rate of $170 per hour for all grant eligible services it performs, subject to an annual not-to-exceed amount of $299,880.

However, this annual not-to-exceed amount would not apply to grant reimbursable services provided by TBG related to costs in the amount of $221,038 that were previously approved by the Board for TBG and NGN to begin work on preparing the SSEP Grant Application and implementing SSEP activities (e.g. preparation of the Gulf Consortium Policies and Procedures Handbook distributed at the November Board meeting). A breakdown of such costs related to SSEP activities is provided below:

	Initial Board approved amt	Approved Operating Budget Amount	Actual Costs incurred	*Notes*
	2/8/2018	9/27/2018		
Pre-Award Costs	$ 45,100	$ 39,770	$ 39,770	*1st Pre Award completed before September board mtg; substituted actual costs*
Grant Management Platform	$ 17,500	$ 30,183	Pending	*2nd Pre Award approved by Council for $44,280; letter requesting recategorization between line items has been sent to Council*
Subaward protocol and conditions development	$ 47,175	$ 70,110		
Services procurement and related contract activities	$ 76,313	$ 30,750		
Grant bundling and administration	$ 34,950	$ 50,225		
SSEP Total	$ 221,038	$ 221,038		
**Note some items were re-categorized per Council guidance*				

For these previously approved SSEP-related costs, a separate not-to-exceed amount of $169,226 is provided.[1]

The proposed compensation structure is similar to the existing contract between the Consortium and NGN, which contains a not-to-exceed amount related to non-grant eligible general counsel services and a separate not-to-exceed amount for legal services rendered that are eligible for grant reimbursement. Additionally, the Amendment is designed to further the Consortium's desire to maximize the use of available Federal funds for the payment of management services, as is currently recognized in the Agreement.

Fiscal Analysis

Under the proposed Amended Agreement, even if the maximum "not-to-exceed" amounts were expended each year, the total amount of grant funds to be paid to TBG would be less than 1% of approved grant application totals. It is important to note that all fee amounts include a "not-to-exceed" cap, and actual costs may be less than the approved amounts.

Further, the Balmoral Group's audited overhead rates are currently lower than the rate included in the Planning Grant (which was $205), and the proposed amendment reflects an updated hourly rate of $170.

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[1] This amount reflects that a portion of the $221,038 budgeted for SSEP costs was also intended to cover NGN's work effort and software costs associated with the SSEP.

The proposed Amendment reflects the work effort associated with the Board's approvals of the SSEP Grant application (931 hours), Pre-Award costs (436 hours of the 931 hours), and Initial year grant submittals of up to $79.8 million to process an estimated 49 grant applications. The initial year of implementation is projected to include a high level of grant submittal activity, based on feedback from the Consortium and the member counties. However, the amount of grant applications *actually* received is wholly dependent on the member counties, and may be as few as a dozen. To calculate the annual "not-to exceed" cap, an upper bound of 49 projected grant applications was utilized so as not to underestimate the potential work effort involved.

Based on approximately 36 hours per grant application, an upper bound for the annual grant-eligible costs associated with ongoing implementation is estimated at 1,764 hours for SEP implementation (49 x 36). However, it should be noted that at time of preparation of this agenda item, fewer than ten grant applications and one SEP amendment have been identified for processing in the first fiscal year of SEP implementation, which would result in actual fees based on this estimate of closer to 360 hours (10 x 36).

No fiscal impact beyond that already approved by the Board is included in this item; the proposed amendment memorializes expenditures already included in the Operating Budget. Table 1 provides reference.

Operating Budget Line Item	Operating Budget Line Item Amount	Related Contract Amendment Amount
SSEP	$221,038	Up to $169,226
Project Grant Funds	$79,783,376	Up to $299,880
County Funds	$70,025	Up to $40,000

Options:

Option #1, Approve the Contract Amendment
Option #2, Board Direction

Recommendation:

Option #1.

Attachment:

1. Third Amendment to the Agreement for Management Services Between the Gulf Consortium and the Balmoral Group, LLC

Prepared by:

Evan Rosenthal,
Assistant General Counsel
William Smith
The Balmoral Group, Manager
On: January 10, 2019

Action Taken:

Motion to: ____________________, Made by: ________________________;

Seconded by: ______________________.

Approved____; Approved as amended_______; Defeated_________.

THIRD AMENDMENT TO THE AGREEMENT FOR MANAGEMENT SERVICES BETWEEN THE GULF CONSORTIUM AND THE BALMORAL GROUP, LLC.

This Third Amendment to the Agreement for Management Services is entered into by and between the **Gulf Consortium**, a legal entity and public body organized and created pursuant to an interlocal agreement among the 23 county governments along Florida's Gulf Coast (the "Consortium"), and **The Balmoral Group, LLC,** whose business address is 165 Lincoln Avenue, Winter Park, Florida 32789 (the "Contractor"), which parties may hereinafter collectively be referred to as the "Parties."

WHEREAS, the Consortium and the Contractor initially entered into an Agreement for Management Services, dated April 6, 2017, as subsequently amended (the "Agreement"); and

WHEREAS, the Agreement authorizes the term to be extended for two additional one-year periods; and

WHEREAS, in accordance with the Consortium's desire to maximize the use of available Federal funds in performing its responsibilities related to the development and implementation of the Florida State Expenditure Plan (SEP) and in recognition of the increased work effort associated with implementation of both the SEP and Stand-Up State Expenditure Plan (SSEP), the Parties wish to amend the Agreement to establish the terms and conditions pursuant to which Contractor shall be compensated for certain grant eligible services provided in furtherance of the implementation of the SEP and SSEP.

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the parties hereby agree to amend the Agreement as follows:

(~~stricken~~ words indicate deletions, <u>underlined</u> words indicate additions)

1. Section 1 of the Agreement is hereby amended as follows:

<u>SERVICES TO BE PROVIDED</u>

The Contractor hereby agrees to provide to the Consortium management services in accordance with:

A. The Request for Proposal for Management Services for the Gulf Consortium #BC-01-10-17-16 ("RFP"), which was attached to the Agreement as Exhibit A, to the extent that the RFP is not inconsistent with this ~~Agreement~~ <u>Amendment</u>; and

B. The Contractor's submissions to the RFP, which was attached to the Agreement as Exhibit B, to the extent that the submission is not inconsistent with this ~~Agreement~~ <u>Amendment</u> or with Exhibit A; and

C. <u>The Stand-Up State Expenditure Plan (SSEP) Grant Application/Agreement; and</u>

D. Subsequent Florida State Expenditure Plan (SEP) project implementation grant applications/agreements approved by RESTORE Council.

2. Section 3 of the Agreement is hereby amended as follows:

TERM OF AGREEMENT

~~This Agreement shall be for a period of two years, commencing on May 1, 2017, and shall continue until April 31, 2019. After the initial two year period, at the sole option of the Consortium, this Agreement may be extended for no more than two additional one year periods. Such one year extensions will be automatic unless the Consortium provides written notice of non-renewal to the Contractor no less than thirty (30) days prior to the expiration date of the then-current term.~~ Following the initial two year term of this Agreement ending on April 30, 2019, this Agreement shall be extended for a one-year term commencing May 1, 2019 and shall continue until April 30, 2020. Thereafter, at the sole option of the Consortium, the Agreement may be extended for one additional one year term. Such one year extension will be automatic unless the Consortium provides written notice of non-renewal to the Contractor on or before March 31, 2020.

3. Section 4 of the Agreement is hereby amended as follows:

COMPENSATION

(A) The Contractor agrees that for the performance of the Services as outlined in Section 1 above, it shall be compensated by the Gulf Consortium in a manner that maximizes the use of federal funds to pay for such services ~~and in no event shall the compensation exceed EIGHT THOUSAND FIVE HUNDRED EIGHTY EIGHT DOLLARS ($8,588) per month for the initial two-year period. The compensation shall include all services to be provided, including expenses such as copying, long distance phone, travel, and general overhead~~. If this Agreement is extended beyond the initial two-year period, Contractor's compensation for General Administrative Services (i.e., non-grant eligible services) for subsequent years shall be charged at an hourly rate of ONE HUNDRED SEVENTY DOLLARS ($170) not to exceed SEVEN THOUSAND SIX HUNDRED FORTY TWO DOLLARS ($7,642) per month. The compensation shall include all General Administrative Services to be provided, including expenses such as copying, long distance phone, travel, and general overhead.

(B) Separate from the amount due under Section 4(A), it is recognized that certain management services may be eligible for grant reimbursement ("Grant Eligible Services"). In the event Federal funds or other funds become available to pay for such Grant Eligible Services, Contractor shall be paid a fee of ONE HUNDRED SEVENTY DOLLARS ($170) per hour for providing such services. However, the Consortium shall not be obligated to pay Contractor in excess of TWO HUNDRED NINETY NINE THOUSAND EIGHT HUNDRED AND EIGHTY DOLLARS ($299,880) per fiscal year from grant funds, with the exception of any amounts that may be paid to Contractor from grant funds pursuant to previously approved SSEP costs addressed in paragraph (C) of this Section. All services provided that for any reason do not qualify for grant reimbursement under paragraph (B) or (C) of this Section shall be considered General Administrative services payable as set forth in Section (4)(A).

1. Grant-eligible costs incurred to prepare, submit, manage and close out grants will be included as contractual services within grant application submittals to RESTORE Council. For each grant submittal, Consortium approval of pre-award costs will be obtained prior to incurring expense.

(C) The Consortium previously approved SSEP costs in the amount of TWO HUNDRED TWENTY ONE THOUSAND AND THIRTY EIGHT DOLLARS ($221,038) for Contractor and the Consortium's General Counsel to begin work on preparing the SSEP Grant Application and implementing SSEP activities. This amount was included in the Consortium's FY 18-19 operating budget and the SSEP itself, and some or all of such SSEP costs may constitute Grant Eligible Services, as defined above. As individual line items within the approved operating budget vary from the original estimates provided within the SSEP, notification has been provided to the RESTORE Council. However, remaining SSEP activity shall be completed within the approved budget and the total amount of approved SSEP costs remains unchanged. For Grant Eligible Services provided by Contractor under this paragraph, the Consortium shall not be obligated to pay Contractor in excess of ONE HUNDRED SIXTY NINE THOUSAND AND TWO HUNDRED TWENTY SIX DOLLARS ($169,226) from grant funds. Contractor shall be paid a fee of ONE HUNDRED SEVENTY DOLLARS ($170) per hour for services provided in accordance with this paragraph.

4. All other provisions of the Agreement shall remain in full force and effect.

WHERETO, the parties have set their hands and seals effective the date whereon the last party executes this Amendment.

GULF CONSORTIUM	**THE BALMORAL GROUP, LLC.**
By: ______________________________	**By:** ______________________________
, Chairman	**Valerie Seidel, President**
Date: ______________________________	**Date:** ______________________________
By: ______________________________	
, Secretary	
Date: ______________________________	

AGENDA ITEM 11b

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 11b
SEP Planning Consultants – Conflict of Interest

Executive Summary:

At the November 2018 Gulf Consortium Board Meeting, it was requested that the Board revisit the Conflict of Interest (COI) clause agreed to by ESA and its subcontractors that currently prohibits ESA and its subcontractors from working on implementation of the SEP for the Consortium and the 23 member counties. Such COI clause was originally proposed by ESA, and was developed primarily in order to comply with Treasury regulations prohibiting conflicts of interest in the development and implementation of the SEP and was included within the SEP itself. It provides as follows:

> The Consultant agrees to recuse itself from all participation in any projects, programs, and activities ultimately included in the State Expenditure Plan. Attached as composite Exhibit E is a copy of each Consultant's agreements with its named team partner firms and individuals regarding such firms recusal from all participation in any projects, programs, and activities ultimately included in the State Expenditure Plan.

State Expenditure Plan at Page 20.

It is important to note that the COI clause only extends to projects that were ultimately included in the SEP. ESA and its subcontractors are free to work on Pot 1 and Pot 2 projects as well as any other projects not related to SEP implementation for the Consortium and the member counties.

In response to a request from ESA that the COI clause be waived or amended, the Board previously addressed the COI clause over the course of several meetings in late 2017 and early 2018. Ultimately, at the Board's February 2018 meeting, the Board voted to deny ESA's request and leave the COI clause in place.

Because the COI clause was included within the SEP, any adjustment to the COI clause would require an SEP amendment, which must be approved by the RESTORE Council prior to taking effect. Further, even if changes to the COI clause were to be approved by the RESTORE Council, a future audit could nonetheless determine that a prohibited conflict of interest exists, thus potentially resulting in the clawback of grant funds awarded to the Consortium and/or the denial of subsequent reimbursement requests.

Additionally, ESA has submitted a letter regarding this item in which it argues that because it is no longer under contract with the Consortium as of this time, the COI clause is no longer valid and ESA is now effectively free to work on SEP implementation projects for the Consortium and/or the Counties. ESA's legal position is unpersuasive. The intent of the parties was clearly for the conflict language to apply *throughout* implementation of the SEP. Further, the inclusion of the COI clause within the SEP was unmistakably intended to establish that ESA and its team were precluded from participating in SEP implementation for the life of the SEP.

Since attempting to weaken or eliminate the COI clause would result in increased risk to the Consortium at a time when the Consortium is simultaneously seeking to overcome its "high risk" designation, I recommend the Board leave the existing COI language in place.

Analysis

It is the responsibility of all public officers, employees, and consultants to ensure the integrity and impartiality of the Consortium's procurement process. Fair and open competition is a basic tenet of public procurement. Such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically and helps to establish public confidence in the process by which services are procured.

To that end, the COI clause was put in place to provide sufficient control to prevent conflicts in the development and implementation of the SEP as required by Treasury. ESA agreed to this restriction when it first contracted with the Consortium and spent the last 3+ years working closely with the 23 counties on the development of the projects ultimately included in the SEP.

Under federal law, the Consortium is required to safeguard against conflicts of interests in administrating federal funds. The Consortium should consider the following guiding principles related to competitive procurements and COI:

Federal Law

- The U.S. Department of Treasury Regulation requires the SEP to "describe the processes used to prevent conflicts of interests in the development and implementation of the plan." *§34.503(b)(3), 31 CFR Part 34*.

- "In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements." *§200.319(a), 2 CFR Part 200*.

RESTORE Council

- The Council has adopted a Code of Conduct which requires the Consortium to maintain written standards of conduct regarding conflicts of interest. The provision includes a conflict certification form that requires the Consortium to "establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of this award." *Form SF-424B, Section N, Restore Council Financial Assistance Standard Terms and Conditions*.

Florida Law

- "A person who receives a contract that has not been procured pursuant to subsections (1) - (3) to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a solicitation or who develops a program for future implementation, is not eligible to contract with the agency for any other contracts dealing with that specific subject matter." *§287.057(17)(c), F.S*.

The COI clause was originally offered by ESA during the procurement process in response to the Consortium's request for best and final offer. ESA voluntarily contracted with the Consortium to serve as the planning consultant responsible for development of the SEP and has reaped the benefits thereof. The COI clause is reasonable, serves a legitimate public interest and is limited solely to the projects included in the SEP. ESA is free to work on Pot 1 projects, Pot 2 projects, Triumph projects or any other individual counties' projects.

Concerns in Amending the COI Clause:

- The Consortium, which has been flagged as a "high-risk" entity by the RESTORE Council, is in the process of "standing up" the administrative structure required to enable it to obtain grant funding from the RESTORE Council and implement the projects contained within the SEP. This process includes the completion of an organizational self-assessment (OSA). Submission of a proposed SEP amendment seeking to reduce or eliminate ethical restrictions that were included in the SEP to comply with Treasury Regulations relating to conflicts of interest in the development and implementation of the SEP may undermine these efforts.

- While ESA has previously contended that the COI clause became obsolete after the Consortium shifted to the "Even-Steven" approach whereby each county would receive equal funding, even under the Even-Steven approach, ESA has had a significant role in the characterization and refinement of projects in the SEP. Over the last 2.5 years, ESA and its subcontractors have met with individual counties and may be deemed as having an "unfair advantage" over other future bidders as they are in a position to have more information about timing, costs, leveraging and inner-project needs.
    - A state agency may not enter into a contract if a conflict of interest is based upon the vendor gaining an unfair competitive advantage. *§287.057(16), F.S.*
    - An "unfair competitive advantage" exists when the vendor has obtained:
        a) Access to information that is not available to the public and would assist the vendor in obtaining the contract; or

b) Source selection information that is relevant to the contract but is not available to all competitors and that would assist the vendor in obtaining the contract.

- A concern may be raised as to the integrity of the original selection process as other consulting firms may have decided not to bid on the development of the SEP to remain eligible to compete on implementation.
- Future bidders may be discouraged from competing on implementation based on a perception of favoritism towards ESA and its subcontractors.
- The ultimate determination as to whether a conflict of interest exists could be raised in an audit, which may result in financial repercussions.

ESA's Letter:

In a letter addressing this issue dated January 16, 2019, ESA argues that because it is no longer under contract with the Consortium, the COI clause is moot and it is free to work on SEP implementation for the Consortium and the member counties. ESA's position is not persuasive and is further contrary to what it has previously represented to the Consortium.

Dating back to the procurement process that resulted in the selection of ESA to serve as SEP Planning consultant, ESA has represented that it would refrain from participating in SEP implementation. During the procurement process, the Consortium issued a "Request for Best and Final Offer" (RBAFO) to four shortlisted firms, which required that they address "how the Consortium's use of the Firm in implementing the SEP would comply with the Treasury Interim Final Rule section 34.503(b)(3) to prevent conflicts of interest in the development and implementation of the SEP."

In its response to the RBAFO, ESA submitted the following:

> *We have reviewed and carefully considered the Conflict of Interest clause contained in the RBAFO, as well as later clarification of that clause provided by the Leon County Purchasing Department. As we interpret it, the clear intention of this clause is to preclude any actual or perceived bias on the part of the SEP planning consultant such that they could later profit from participating in the implementation of projects, programs, and activities included in the SEP.*
>
> *The ESA team fully accepts the limitations expressed in this clause, and ESA and its named team partner firms and individuals <u>will formally recuse themselves from all later participation in any projects, programs, and activities ultimately included in the SEP</u>. If selected by the Consortium, the ESA team will be beholden solely and exclusively to the interests of the Consortium, and will not seek to profit from the subsequent implementation of the SEP prepared by the ESA team.*

ESA did not qualify or limit this statement to only the period under which it would be under contract with the Consortium. Doing so would in fact have stripped it of any real meaning, since it was likely that SEP planning consultant would no longer be under contract at the time of implementation.

ESA's argument that the reference to the COI clause within the SEP itself is now moot because they are no longer under contract is similarly unpersuasive. The clear intent of including this language in the SEP was to establish that the Consortium had taken steps to address conflicts of interest in the preparation and implementation of the SEP, by ensuring that the planning consultant responsible for SEP preparation was not going to be involved in SEP implementation in any capacity. Nothing within the SEP references the conflict provision expiring or becoming obsolete upon termination of ESA's contract.

When this issue was last addressed by the Board in 2018, RESTORE Council staff were informed and were further made aware of the Consortium's final decision not to waive or amend the COI clause. RESTORE Council staff recently expressed that the elimination or diminution of the COI clause, if inconsistent with Federal law or regulations, could result in disallowance of future cost reimbursements under SEP awards to the Consortium, indicating that they do not share ESA's position that the COI clause is now moot.

Conclusion:

Despite ESA's argument to the contrary, the COI clause included within the SEP that prevents ESA and its subcontractors from working on SEP implementation remains in effect. Any proposed adjustment to the COI clause would require an SEP amendment, which must be approved by the RESTORE Council.

Pursuing an amendment to the SEP that relaxes the existing COI clause results in increased risks to the Consortium at a time when the Consortium is simultaneously seeking to overcome its "high risk" designation and obtain approval from the RESTORE Council of the Consortium's ability to oversee and manage nearly $300 million in federal grant funds. Therefore, I recommend the Board leave the COI clause as written. I would further encourage all Directors to consult with their respective County Attorneys to the extent they have questions regarding this issue.

Attachments:
ESA Rebuttal Letter

Options:

Option #1, Accept General Counsel's recommendation to leave existing COI clause in place.
Option #2, Board direction.

Prepared by:

Evan Rosenthal
Nabors, Giblin & Nickerson, P.A.

Assistant General Counsel
January 18, 2019

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January 16, 2019

Gulf Consortium Board of Directors
c/o The Balmoral Group, Manager
165 Lincoln Avenue
Winter Park, FL 32789

Subject: Agenda Item 10b: SEP Planning Consultants - Conflict of Interest

Dear Directors:

ESA has reviewed Agenda Item 10b, and urges the Board to accept the General Counsel's recommended Option #1 – to not amend the SEP, and to take no other actions at this time. We do, however, strongly disagree with the General Counsel's analysis and conclusions, as summarized below.

Conflict of Interest Clause is No Longer in Effect

Due to ESA's satisfactory completion of its scope of work, the Agreement between ESA and Consortium was officially terminated by the Consortium effective December 31, 2018 (copy of General Counsel's letter enclosed). There was no survivorship provision in the Conflict of Interest (COI) clause, or elsewhere in the Agreement, that extended the COI clause beyond termination of the Agreement. Therefore, the COI clause is no longer in effect, and ESA is no longer bound by the recusal provision.

While the COI clause was included in the SEP, it is referenced in the past tense as an excerpt from the Agreement which no longer exists. While historically accurate, this reference does not make the COI clause part of the SEP, extend the contract, create a new contract, or otherwise change the fact that the Agreement and COI clause have expired. In the absence of a surviving contract provision, the only possible interpretation is that the COI clause only applied during the term of the Agreement, during which ESA fully complied with the recusal provision.

Now that the entire Agreement is null and void, the COI clause in no longer material or relevant. If it was the intent of the General Counsel to extend the COI recusal provision beyond the expiration of the Agreement, then the Agreement should have been amended accordingly while it was still in effect. It is not possible to now amend an expired COI clause in an expired contract.

Counties Should Be Allowed to Conduct Independent Procurements

ESA agrees with General Counsel's statement that fair and open competition is the basic tenet of public procurement. It is clearly in the public interest to allow for fair and open competition for future SEP implementation work by as large a pool of qualified consultants and contractors as possible. In the absence of any legitimate basis for recusal (see below), all qualified consultants – including ESA - should be allowed to fairly and openly compete for future SEP implementation work as part of that pool.

Furthermore, Consortium member counties should be free to independently determine which consultants and contractors are best qualified to assist them with implementing their SEP projects, and to hire whomever they please. Specifically, each member county should be allowed to determine if ESA's role in preparing the SEP resulted in any conflicts of interest applicable to their projects, and to structure their solicitations accordingly without interference from, or restrictions imposed by, the Restoration Council or the Gulf Consortium.

ESA Has No Conflicts of Interest

ESA did indeed draft the recusal language in the COI clause. It was reasonable under the original contracted scope of work because ESA was responsible for selecting and ranking projects in the FDEP portal for funding, and could have selected and ranked projects that favored certain counties, other sub-recipients, or ESA. However, the Consortium changed ESA's scope of work to a "county-driven" approach whereby each county would self-determine their projects. This changed substantially ESA's role from "decision maker" to "facilitator," and the potential for bias on ESA's part was eliminated. Thus, the change in scope negated the original purpose and perceived need for the COI clause because ESA did not select, rank, nor prioritize projects in the SEP.

Furthermore, pursuant to the Restoration Council's own adopted Code of Conduct, ESA would only be conflicted from competing for future SEP implementation work funded by Spill Impact Component funds if ESA had "drafted project specifications, requirements, statements of work, invitations to bid, or requests for proposals." The SEP is a high level planning document, and ESA conducted none of these activities as part of its preparation. Therefore, ESA has no conflicts of interest whatsoever related to the preparation of the SEP.

ESA Gained No Competitive Advantage

Everything ESA learned about the SEP projects is fully disclosed in the SEP document, a public document that is readily available to the public and all potential competitors. Under its revised scope of work, ESA did not select, rank, or prioritize projects. Rather, ESA assisted each county equally in the definition, feasibility assessment, and refinement of projects that the counties independently self-selected for inclusion in the SEP. All knowledge that ESA gained about the projects included in the SEP was provided by the counties themselves, and in many cases by other county consultants. In addition, many of the SEP projects have been planned or ongoing for many years, and have been thoroughly vetted with the public, including the consultants and contractors. Therefore, ESA gained no competitive advantage in preparing the SEP.

Request

In summary, amending the COI clause, as it is referenced in the SEP, is a moot point because the COI clause expired on December 31, 2018 along with the rest of the Agreement. Furthermore, the risks to the Consortium related to this matter, as described in Agenda Item 10b, are speculative, and are not supported by facts.

For the above reasons, ESA respectfully requests the Consortium Board of Directors to refrain from making any specific procurement policies unique to ESA; or policies that impose restrictions on the ability of member counties to self-determine conflicts of interest and to hire consultants and contractors that best meet their needs for SEP implementation. Such policies would be unreasonable and unjustified, contrary to the public interest with regard to fair and open competition, and not in the best interests of the Consortium and its member counties.

Sincerely,

Terrence P. Keelan, J.D.
ESA Contracts and Insurance Administrator

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December 28, 2018
Via Electronic Mail

Doug Robison,
Vice President
Environmental Science Associates
drobison@esassoc.com

Re: Termination of ESA agreement with the Gulf Consortium

Dear Doug,

Pursuant to the Consortium Board's direction at its November 29, 2018 meeting, the agreement between the Gulf Consortium and ESA for consultant services will be terminated effective December 31, 2018.

Thank you for your service. If you have any questions, please feel free to contact me.

Sincerely,

/s/ Lynn M. Hoshihara, Esq.

cc: Valerie Seidel, General Manager

AGENDA ITEM 12

Gulf Consortium Board Meeting
January 31, 2019

Agenda Item 12
Triumph Planning Discussion

Summary:
Gulf Consortium members have requested an opportunity to explore pursuit of the Triumph funds currently distributed elsewhere in the State. Options for how to proceed via a county-led process for project planning and implementation will be discussed.

Background:
Separate from the resolution of criminal, civil, administrative, and natural resources claims against BP, Transocean and Andarko (i.e., the dollars associated with the RESTORE Act, Natural Resources Damage Assessment and the Gulf Environmental Benefit Fund though the National Fish & Wildlife Foundation) that all derive from the environmental impacts and violations of Federal law, Florida negotiated a settlement in 2015 with BP strictly for economic damages to the State resulting from the Deepwater Horizon event. These funds flow directly to the State of Florida, with no Federal engagement or oversight.

The total settlement between the State of Florida and BP is $2 billion. $400 million was received in 2016, with 15 additional installment payments of approximately $106.7 million per year expected through 2031. The funds are initially received into General Revenue.

Under the Gulf Coast Economic Corridor Act (ss. 288.8011-288.8018, F.S.), 75% of these BP funds go to the eight disproportionately affected counties (Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin and Wakulla). Per the Act, the remaining 25% remains in the State's General Revenue Fund.

Triumph Gulf Coast, Inc., a non-profit corporation that is not a unit or entity of state government, was set up to receive and administer the region's share of BP settlement funding, $300 million in FY 2017 and approximately $80 million annually thereafter. The following table describes the statutory allocations.

Year Funding Received	Payment (millions)	Triumph Share (millions)	General Revenue (millions)
2016	400.00	300.00	100.00
2017	106.67	80.00	26.67
2018	106.67	80.00	26.67
2019	106.67	80.00	26.67
2020	106.67	80.00	26.67
2021	106.67	80.00	26.67
2022	106.67	80.00	26.67
2023	106.67	80.00	26.67

2024	106.67	80.00	26.67
2025	106.67	80.00	26.67
2026	106.67	80.00	26.67
2027	106.67	80.00	26.67
2028	106.67	80.00	26.67
2029	106.67	80.00	26.67
2030	106.67	80.00	26.67
2031	106.67	80.00	26.67
Total	2000.00	1500.00	500.00

The Act ensures minimum disbursements to each of the eight counties. Of the first $400 million payment, no less than 40% is to be divided equally among the counties; of the remaining annual payments, not less than 32% is to be divided equally among the counties.

With no other specific distributions in the Act, the remaining 25% of BP funds in General Revenue benefit Florida as a whole (in principle), including the 8 disproportionally affected counties, the 15 other Gulf Consortium counties, and the 44 non-Gulf front counties.

Analysis:
Per the above table, the current allocation of 25% of the BP monies to General Revenue will total $500M by FY 2032-33. Prior Board discussions have highlighted an interest in establishing a share of these remaining BP settlement dollars for the other 15 member counties of the Gulf Consortium. As the 15 are direct beneficiaries of RESTORE monies via Pot / Bucket 1 there is a basis for concluding these counties have been impacted to a greater degree than the 44 non-Gulf counties.

As two fiscal years have passed since the first payment of $400 million, assuming continuity of BP payments there are approximately $346.7 million yet to be appropriated. These remaining General Revenue BP economic damages settlement funds are greater than the approximately $291 million remaining in Florida's allocation under Pot 3.

Representative Drake (District 5) has filed HB 191, which would allocate 5% of all payments to the state to support economic development in the following "rural inland affected" counties: Calhoun, Gadsden, Holmes, Jackson, Jefferson, Liberty, and Washington. The bill would direct approximately $5.3 million annually to the Department of Economic Opportunity for a grants program to achieve objectives similar to those charged to Triumph Gulf Coast, Inc. The bill does not ensure a minimum share for any of these eight counties individually.

As of January 18, 2019, HB 191 has been referred to the Workforce Development & Tourism Subcommittee. No companion bill has been filed in the Senate. However, Senator Montford (District 3) has filled SB 298 that touches on several of the same themes of rural economic development addressed by HB 191, but it is statewide in scope and is a very different vehicle for bolstering rural opportunity. These two bills (or parts thereof) may become consolidated as SB 298 also places program management within DEO.

Options:

Option #1, Board Direction

Recommendation:

Option #1.

Prepared by:

Dan Dourte
The Balmoral Group, Manager
On: January 18, 2019

Action Taken:

Motion to: ______________________, Made by: __________________________;

Seconded by: _______________________.

Approved____; Approved as amended_______; Defeated__________.