

**OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

MEMORANDUM

Agenda Item No. 8(L)(3)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 4, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving
Amendment VI to the Agreement
between Miami-Dade County
and The Nature Conservancy for
continued provision of land
acquisition and other
professional services for the
Environmentally Endangered
Lands Program for a four-year
period not to exceed
\$489,484.00, consisting of up to
\$484,484.00 in contract fees and
up to \$5,000.00 in option fee
reimbursements; and authorizing
the County Mayor to execute
same and exercise the provisions
contained therein

Resolution No. R-289-23

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.


Geri Bonzon-Keenan
County Attorney

GBK/jp

MDC001

Memorandum



Date: April 4, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Approving and Authorizing the Execution of Amendment VI to the Agreement between Miami-Dade County and The Nature Conservancy for Continued Provision of Land Acquisition and Other Services for the Environmentally Endangered Lands Program

Executive Summary

This item seeks approval from the Board of County Commissioners ("Board") to extend the Professional Services Agreement ("Agreement") between Miami-Dade County and The Nature Conservancy Charitable Trust ("The Nature Conservancy") for a period of four additional years. The Nature Conservancy is an efficient and experienced non-profit organization that handles all of the Environmentally Endangered Lands (EEL) Program's land acquisition contracts and negotiations, which are critical to the EEL Program. The fiscal impact to the County over four years will not exceed \$489,484.00. This is Amendment VI to the original 2001 Agreement, which currently expires on April 19, 2023, and was approved pursuant to Resolution No. R-189-01.

Recommendation

It is recommended that the Board adopt the attached resolution approving and authorizing the execution of Amendment VI to the existing Professional Services Agreement between Miami-Dade County and The Nature Conservancy, a non-profit organization, to continue providing land acquisition and other services for the Miami-Dade County Environmentally Endangered Lands Program (EEL). Amendment VI is attached to the resolution as Exhibit 1.

Scope

This amendment provides professional services for the Environmentally Endangered Lands Program, which is countywide in nature.

Delegation of Authority

This item authorizes the County Mayor or the County Mayor's designee to execute Amendment VI to the Agreement between Miami-Dade County and The Nature Conservancy for continued provision of professional services and to exercise the provisions contained therein.

Fiscal Impact/Funding Source

The maximum total cost for the four additional years of Amendment VI is \$489,484.00: this includes a total cost of \$484,484.00 for the contract fee and an additional \$5,000.00 for option fee reimbursements for purchases that do not close. The contract fee will be \$117,000.00 for the first year, \$120,510.00 for the second year, \$124,125.00 for the third year, and \$127,849.00 for the fourth year. Funding is provided by the EEL Acquisition Trust Fund G2001, which had a balance of \$4,070,181.00 as of November 30, 2022, for multi-year operations and projects. While not reflected in the balance, as part of the Fiscal Year 2022-2023 adopted budget, the EEL Program

Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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will receive a one-time multi-year infusion of \$24,000,000.00 from the MIAMI RESCUE PLAN to support ongoing acquisitions, management, maintenance, and administration costs.

Track Record/Monitor

Janet Gil, the EEL Program Manager within the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, will monitor this contract.

Background

On March 8, 2001, the Board approved Resolution No. R-189-01 and authorized the execution of a six-year agreement with The Nature Conservancy to act as land acquisition agent on behalf of the County in acquiring conservation lands from willing sellers. In 2007, 2009, 2011, 2015, and 2019 the Board approved amendments to the Agreement for time extensions and annual expenditure amounts.

The Nature Conservancy, a national non-profit organization whose central mission is protecting biodiversity through the preservation of natural habitat, fulfills its mission by acquiring and managing conservation lands and consequently has a depth of experience in these specialized areas. The Nature Conservancy has been active in the acquisition and management of Florida's environmental lands for State, regional, and local government programs. The Nature Conservancy has expertise particular to government land acquisition under Florida law and the State's conservation land acquisition programs, which has provided substantial matching funds to the County. The Nature Conservancy has assisted the EEL Program by negotiating land purchase contracts, complying with the complex requirements in joint County-State acquisitions, closing on land contracts, and developing additional funding sources. The vast majority of these properties are approved for joint funding with one of three other acquisition programs: (1) South Florida Water Management District's Save Our Rivers Program, (2) the State's Conservation and Recreation Lands Program and (3) Florida Communities Trust Program. As a practical matter, these funds are made available only after the County completes the acquisition. Therefore, it is in the County's best interest to continue to engage the services of The Nature Conservancy so that these opportunities for joint funding can be realized.

The Nature Conservancy has successfully negotiated the sale of over 22,500 acres of environmental lands valued at over \$58,000,000.00 within Board-approved EEL acquisition areas for purchase by the County and the South Florida Water Management District. In addition, The Nature Conservancy staff has assisted in developing procedures for EEL's 54,000-acre South Dade Wetlands Preserve joint acquisition project with the South Florida Water Management District, conducted training for County real estate staff, consulted with the County regarding the management of natural areas, prepared a site management plan for one site, organized special events, and represented the County before the boards of State granting agencies in Tallahassee. The EEL Acquisition List currently contains more than 33,000 acres of land yet to be acquired. The Nature Conservancy's statewide experience and working knowledge of the State's land conservation and grant programs continue to benefit the land acquisition mission of the EEL Program. The current agreement with The Nature Conservancy expires on April 19, 2023, and the proposed Amendment VI will extend the Agreement for four additional years and will provide annual expenditure amounts.

Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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The Nature Conservancy has provided professional services to the EEL Program since April 1994, when the Professional Services Agreement was established to acquire eligible EEL Program properties more efficiently.

Through this Agreement, The Nature Conservancy maintains one Field Representative in the EEL Program offices who is highly experienced in negotiating conservation land purchases within the South Dade Wetlands Project. Keeping with the same land acquisition organization for the past twenty-eight (28) years has allowed The Nature Conservancy to develop relationships with South Dade Wetlands and other private landowners, which is critical to the successful acquisition of conservation parcels.

In 2016, The Nature Conservancy demonstrated their commitment to the EEL Program's mission and the protection of Miami-Dade County's environmentally sensitive lands by facilitating a financial contribution of \$300,000.00 to Miami-Dade County from TD Bank for the acquisition and management of a portion of the Goulds Pineland Preserve. In 2008, The Nature Conservancy provided a \$72,000.00 grant award for wetland acquisition and donated a 300-acre conservation parcel in the Biscayne Bay Coastal Wetlands project area to Miami-Dade County.

Based on the information provided above, it is in the County's best interests to continue using The Nature Conservancy for environmental land acquisition services due to the long standing partnership and stewardship to the EEL program. It is therefore recommended that the Board approve the resolution to extend the County's Agreement for Professional Services with The Nature Conservancy for an additional four years and for the abovementioned maximum expenditure amounts.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: April 4, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(L)(3)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved *Daniella Lane Carr* Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(3)
4-4-23

RESOLUTION NO. R-289-23

RESOLUTION APPROVING AMENDMENT VI TO THE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE NATURE CONSERVANCY FOR CONTINUED PROVISION OF LAND ACQUISITION AND OTHER PROFESSIONAL SERVICES FOR THE ENVIRONMENTALLY ENDANGERED LANDS PROGRAM FOR A FOUR-YEAR PERIOD NOT TO EXCEED \$489,484.00, CONSISTING OF UP TO \$484,484.00 IN CONTRACT FEES AND UP TO \$5,000.00 IN OPTION FEE REIMBURSEMENTS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE THE PROVISIONS CONTAINED THEREIN

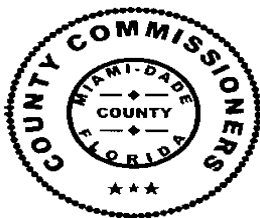
WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves Amendment VI to the existing Agreement between Miami-Dade County and The Nature Conservancy, in substantially the form attached hereto as Exhibit 1 and made a part hereof, for continued provision of land acquisition and other professional services for the Miami-Dade County Environmentally Endangered Lands Program for a four-year period not to exceed \$489,484.00, consisting of up to \$484,484.00 in contract fees and up to \$5,000.00 in option fee reimbursements to The Nature Conservancy; and authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise the provisions contained therein.

The foregoing resolution was offered by Commissioner **Raquel A. Regalado**, who moved its adoption. The motion was seconded by Commissioner **Danielle Cohen Higgins** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of April, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

LUIS G. MONTALDO, CLERK AD INTERIM

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Cristina M. Rabionet

EXHIBIT 1

AMENDMENT VI MIAMI-DADE COUNTY ENVIRONMENTALLY ENDANGERED LANDS PROGRAM AGREEMENT FOR PROFESSIONAL SERVICES

THIS AMENDMENT is made and entered into this _____ day of _____, 2023, by and between Miami-Dade County, a political subdivision of the State of Florida ("County") and The Nature Conservancy, a District of Columbia nonprofit corporation, authorized to transact business in the State of Florida as The Nature Conservancy, Inc., as Trustee of The Nature Conservancy Charitable Trust dated May 11, 1998, as amended, exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code ("Conservancy" or "contractor").

WHEREAS, County and Conservancy entered into that certain Dade County Environmentally Endangered Lands Program Agreement for Professional Services dated April 20, 2001, amended by Amendment I dated April 20, 2007, Amendment II dated March 20, 2009, Amendment III dated April 14, 2011, Amendment IV dated April 1, 2015, and Amendment V dated April 9, 2019 (collectively, the "Agreement"), which provided for the Conservancy to perform certain services in connection with the County's Environmentally Endangered Lands Program; and

WHEREAS, the term of the Agreement expires April 19, 2023; and

WHEREAS, the parties desire to extend the term of the Agreement until April 19, 2027; and

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

1. Section 3.01 is hereby amended to provide the following:

"For the period from April 20, 2023 to April 19, 2027, the County shall pay the Conservancy for its direct and indirect costs incurred in performing the work hereunder (the "Contract Fee") an amount not to exceed \$489,484. For the period from April 20, 2023 to April 19, 2024, the County shall pay the Conservancy a Contract fee not to exceed \$117,000. For the period April 20, 2024 to April 19, 2025, the County shall pay the Conservancy a Contract Fee not to exceed \$120,510. For the period April 20, 2025 to April 19, 2026, the County shall pay the Conservancy a Contract Fee not to exceed \$124,125. For the period from April 20, 2026 to April 19, 2027, the County shall pay the Conservancy a Contract fee not to exceed \$127,849 (collectively referred to herein as the "Maximum Fee"). Any and all such sums shall be paid on a cost reimbursable basis in accordance with the Fee Schedule referenced in this paragraph as Exhibit "A". The Conservancy's indirect costs for the extended term shall be calculated based on its FY 23 overhead rate of 22.40% in accordance with the Negotiated Indirect Cost Rate Agreement (NICRA) letter from the U.S. Department of Interior ("DOI") dated July 11, 2022, referenced in this paragraph as Exhibit "B". In the event that the Conservancy's NICRA is revised by the DOI, the indirect cost rate paid hereunder shall automatically be adjusted to such revised rate. Notification and evidence of the Conservancy's revised rate shall be sent to the County in the event of

any rate adjustment, provided however, such rate adjustments shall not require the County to pay in excess of the Maximum Fee.

The County shall reimburse the Conservancy for any option agreement fee and/or earnest money deposit (the "Option Fees"), not to exceed \$100.00 per option agreement, that the Conservancy has actually paid to landowners in the process of assisting the County in acquiring the property during the term of this Agreement. These option fees shall be reimbursed to the Conservancy as part of each option agreement at the time of closing. The option fee reimbursement for purchases that do not close shall not exceed \$5,000 for the four-year contract period.

The Contract Fee and Option Fees shall be paid on a quarterly basis, beginning three months after the effective date of this Agreement. Payments will be made within thirty (30) days of receipt by the County's authorized representative of the Conservancy's quarterly invoice for Contract Fees and Option Fees. Contract Fees and Option Fees will be invoiced quarterly."

2. Article V – Term is hereby modified as follows:

"Unless otherwise terminated, the Agreement shall continue to be in full force and effect until April 19, 2027, or sixty (60) days after receipt by the Conservancy of written notice of termination from the County, whichever shall first occur (the "Extension Term")."

3. Section 7.03 is hereby deleted and replaced with the following:

"7.03 Notices.

(a) Notices required or permitted to be given hereunder shall be in writing, may be delivered personally or by mail, telex, cable or courier service and shall be deemed given when received by the addressee named below for each party. Addressee shall be the designated agent for service of the process. Notices shall be addressed as follows:

To the County:

Ms. Janet Gil
Program Director
Miami-Dade County
Division of Environmental Resources Management
Environmentally Endangered Lands Program
701 NW 1st Court, Suite 400
Miami, FL 33136
Tel. 305-372-6471
Janet.Gil@miamidade.gov

To the Conservancy:
Ms. Angela Klug
Senior Real Estate Manager
The Nature Conservancy
1035 S Semoran Blvd.
Suite 2-1021B
Winter Park, FL 32792
Tel. 407-682-3664
aklug@tnc.org

With a copy to:
Legal Department
1035 S Semoran Blvd.
Suite 2-1021B
Winter Park, FL 32792

or to such other address as either party may direct by notice given to the other as hereinabove provided.

Notwithstanding the foregoing, any notice sent to the last designated address of the party to whom a notice may be or is required to be delivered hereunder shall not be deemed ineffective if actual delivery cannot be made due to a change of address of the party to whom the notice is directed or the failure or refusal of such party to accept delivery of the notice."

4. Section 7.10 is hereby added to provide the following:

"7.10 Public Records.

(a) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE MIAMI-DADE COUNTY REGULATORY AND ECONOMIC RESOURCES, DIVISION OF ENVIRONMENTAL RESOURCES MANAGEMENT, ENVIRONMENTALLY ENDANGERED LANDS PROGRAM, ATTN: MS. JANET GIL, (305) 372-6687, janet.gil@miamidade.gov, 701 NW 1ST STREET, 5TH FLOOR, MIAMI, FL 33136.

(b) The Conservancy agrees to:

- (1) Keep and maintain public records required by the public agency to perform the service.
- (2) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time

at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- (4) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency."

5. This Agreement may be amended by mutual written agreement of both parties.

ALL ELSE REMAINS THE SAME.

IN WITNESS WHEREOF, the parties have set their hand and affixed their seals this _____ day of _____, 2023

THE NATURE CONSERVANCY, a
nonprofit District of Columbia Corporation,
as Trustee of The Nature Conservancy
Charitable Trust dated May 11, 1998, as
amended



Witness

By:



Lisa Romero

Its: Florida Director of Finance and Operations



Witness

(Corporate Seal)

Date signed: 03/02/2023

Legal Review: LPR 3/2/2023

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida

By: _____
for, Mayor

Print Name: _____

Approved by County Attorney
as to form and Legal Sufficiency

Assistant County Attorney

The foregoing was accepted and approved on the ____ day of _____, 2023 by
Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida.

Exhibit A
Fee Schedule

HOURLY RATE RANGES

The hourly rate ranges for various positions for the first contract year are listed as below. The personnel charges will be billed at the actual rate.

<u>Position</u>	<u>Hourly Rate Ranges (including benefits)</u>	
	<u>Low End</u>	<u>High End</u>
Senior Real Estate Manager	\$54.81	\$93.20
Miami-Dade Program Manager	\$36.40	\$58.31

Direct costs/reimbursable expenses include communications and miscellaneous expenses necessary to implement this agreement (with pre-approval from Miami-Dade County).

Indirect costs/overhead are calculated based on the FY23 Federally Approved rate of 22.40% in accordance with The Nature Conservancy's Negotiated Indirect Cost Rate Agreement (NICRA). In the event that The Nature Conservancy's NICRA is revised, the indirect cost rate paid hereunder shall automatically be adjusted to such revised rate, provided however, in no event shall any rate adjustments require Miami-Dade County to pay in excess of the Maximum Fee. The Nature Conservancy will provide legal and administrative support with attorney, legal assistant, finance staff and administrative staff. These staff will not charge time to the county contract.

Exhibit B
FY23 NICRA



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Nonprofit Organization Indirect Cost Negotiation Agreement

EIN: 53-0242652

Date: 07/11/2022

Organization:

The Nature Conservancy
4245 North Fairfax Drive, Suite 100
Arlington, VA 22203

Report Number: 2022-0240

Filing Ref.:
Last Negotiation Agreement
dated: 05/10/2021

The indirect cost rates contained herein are for use on grants, contracts, and other agreements with the Federal Government to which Public Law 93-638 and/or 2 CFR Part 200 apply subject to the limitations contained in Section II.A. of this agreement. The rates were negotiated by the U.S. Department of the Interior, Interior Business Center, and the subject organization in accordance with the authority contained in applicable regulations.

Section I: Rate

Start Date	End Date	Rate Type				
07/01/2022	06/30/2023	Fixed Carry forward	Name	Rate	Base	Location
			Indirect	22.40 %	(A)	All
			Fringe Benefits	44.75 %	(B)	All
			Fringe Benefits	13.00 %	(C)	All
			Fringe Benefits	13.25 %	(D)	All

(A) Base: Total direct costs, less external transfers and the value of land sold or donated to government agencies and other conservation organizations. Equipment costs valued between \$5,000 and \$50,000 are included in the base limited to the first year of capitalization. **All subawards, regardless of dollar amount, are included in the direct cost base for purposes of computing the indirect cost rate.**

(B) Base: Total salaries and wages for regular employees.

(C) Base: Total salaries and wages for short-term employees.

(D) Base: Total salaries and wages for foreign employees.

Note: The foreign salaries fringe benefit rates refer to benefits that are paid centrally by The Nature Conservancy's (TNC) headquarters. Additional benefits are paid locally by TNC's foreign locations which are charged directly to government awards