File #: 2133, **Version:** 1

Subject:
Florida Department of Environmental Protection grant of $70,000 for the East Central Florida Regional Planning Council to assist Brevard County with addressing deficiencies in the County's 2017 Comprehensive Plan Evaluation and Appraisal Report, as identified by the Florida Department of Economic Opportunity.

Fiscal Impact:
Receipt of $70,000 in FDEP grant funding to offset $70,000 of Balance Forward (Resolution No. 2020-030) approved for the execution of a Memorandum of Understanding with the East Central Florida Regional Planning Council (Item F.1).

Dept/Office:
Natural Resources Management Department (NRM)/Planning & Development (P&D)

Requested Action:
Staff requests that the Board authorize the County Manager to execute a contract with the Florida Department of Environmental Protection (FDEP) to receive $70,000 in grant funding for the East Central Florida Regional Planning Council (ECFRPC) to assist Brevard County with addressing deficiencies in the County's 2017 Comprehensive Plan Evaluation and Appraisal Report (EAR), as identified by the Florida Department of Economic Opportunity (DEO). No match is required for this grant.

Summary Explanation and Background:
Governor DeSantis' Executive Order 19-12 created the Office of Resilience and Coastal Protection (ORCP) to help prepare Florida's coastal communities and habitats for impacts from climate change and sea-level rise; and provide coordination among state, regional, and local entities. FDEP's Florida Resilient Coastlines Program helps prepare coastal communities and habitats for the effects of climate change and sea-level rise by offering technical assistance and funding to communities dealing with coastal flooding, erosion, and ecosystem changes. Since 2018, FDEP has provided assistance to coastal Florida communities, awarding funding for numerous projects. Priority areas include implementing statutory requirements and objectives, vulnerability assessments, adaptation plans, regional efforts, and environmental justice.

On August 1, 2019, FDEP announced a state-funded grant opportunity through the ORCP, aimed at preparing Florida coastal communities for current and future effects of rising sea levels - including coastal flooding - and addressing compliance with Section 163.3178(2)(f) F.S. (Peril of Flood). No match is required for this grant. Further, the grant does not carry any additional resource burden beyond that already required for Peril of Flood compliance.

As presented in Item F.1, Brevard County Transmitted Amendments 2017-2.2, its Comprehensive Plan Evaluation and Appraisal Report (EAR), in November 2017. In January 2018, DEO issued its Objection

Recommendation and Comments (ORC) Report, addressing deficiencies in the County's EAR. DEO stated that the proposed amendments do not provide a coastal redevelopment component in the Coastal Management Element that address sections 163.3178(2)(f)1-3 F.S. (commonly known as the "Peril of Flood" statute).

Recognizing this opportunity to receive funding to comply with the Peril of Flood statute, on October 7, 2019, the County submitted a Resiliency Planning Grant application prepared by the Planning and Development Department (P&D) in collaboration with Natural Resources Management Department (NRM) to request funding through FDEP's Florida Resilient Coastlines Program to prepare for resiliency and comply with Sections 163.3178(2)(f)(1-3), F.S.

On July 22, 2020, the FDEP Florida Resilient Coastlines Program announced that Brevard County was one of 32 coastal counties and municipalities selected to receive a grant award for FY 2020-2021 to prepare for resiliency and comply with Sections 163.3178(2)(f)(1-3), F.S. The awarded grant project represents a collaborative effort between P&D and NRM, and will be accomplished through the contracted services of the East Central Florida Regional Planning Council (ECFRPC). Specifically, the ECFRPC will conduct a vulnerability analysis, engage the public, and develop strategies and draft policies to enhance resilience in Brevard County, which can then be incorporated into the Comprehensive Plan.

The FDEP grant awards were significantly delayed by COVID-19, resulting in months of time lost. ECFRPC states that they will be able to complete the work described in the MOA (presented in Item F.1) if they can start by in the first week of October 2020. The timeframe of the grant will allow adequate time at the conclusion of the project for revising and submitting Comprehensive Plan Amendment No. 2017-2.2 for the expedited state review process for adoption (Sections 163.3184(3) and (5), F.S.). The grant requires no matching funds and requires no additional demands on county resources beyond what is mandated by the Peril of Flood statute.

Any and all Comprehensive Plan amendments developed under this MOA are subject to Brevard County Attorney's Office review and approval. The Board has final authority to approve or deny the submittal to DEO of any and all amendments for Adoption.

<u>FDEP Grant Contract</u>

The FDEP Standard Grant Agreement is attached. Staff sought three clarifications from FDEP, and requested one contract modification.

- Grant Attachment 1, Acceptance of Deliverables, No. 6:

  a. *Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.*

  Staff requested that FDEP modify the last sentence to read: "If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed ~~rejected~~ accepted." FDEP Attorneys responded that this is their standard contract language, and would not modify as requested.

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The FDEP Office of Resilience and Coastal Protection, Contracts & Grants Manager, committed verbally to staff that there would be rapid attention to deliverables.

This language could result in a deliverable being rejected without cause. The County may then be responsible for the $70,000 cost for ECFRPC's work. In the unlikely event that this should occur, NRM has $70,000 in previously approved funds available from FY18-19 balance forward. Since the grant does not create any additional costs beyond analyses that are required by statute, accepting the grant does not increase County costs, even in the unlikely event that the deliverables are rejected by FDEP.

- Grant Attachment 2, Cost Eligible for Reimbursement or Matching Requirements, No. 4:

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated…

FDEP confirmed that Agreement #R2112 is a fixed price agreement, as stated in Attachment 2, No. 3; and No. 4 is not applicable because it pertains to reimbursable, not fixed price agreements.

- Grant Attachment 5, Audits, Part I, Federally Funded:

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330…

FDEP confirmed that there is no federal funding tied to this grant agreement.

- Grant Attachment 5, Audits, Part II, State Funded:

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes…

This means that any State funding received through this agreement should be included in the total of state financial assistance in a recipient's fiscal year. It is mandated by statutory law that an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes is required if total state financial assistance is equal to or in excess of $750,000. This requirement is not specific to this grant, but applies to all state financial assistance. Brevard County already receives well over $750,000 in state funding. Therefore, the acceptance of this $70,000 will not trigger any new auditing requirements for the County.

Value of Proceeding with the Grant to Address the Peril of Flood Statutory Requirements

Per Section 163.3191 F.S., any local government that fails to submit proposed amendments necessary to reflect changes in state requirements within the established time frame may not amend its Comprehensive Plan until such time as it complies. While this would be an unfortunate situation, there are more compelling reasons to proceed. Planning for resilience to reduce flood risk in Brevard means our communities, infrastructure, and economy will be more able to recover from shocks and stressors, including storm events and rising surface waters.

Requested action

Staff requests that the Board authorize the County Manager to execute the attached contract with FDEP.

Clerk to the Board Instructions:

None.