



**MEMORANDUM**

Agenda Item No. 18(A)(2)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** October 4, 2011

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution ratifying the County  
Mayor or County Mayor's designee's  
execution of State Sovereignty Lands  
Easement Number 130235776

The accompanying resolution was prepared by the Department of Environmental Resources Management and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.

R. A. Cuevas, Jr.  
County Attorney

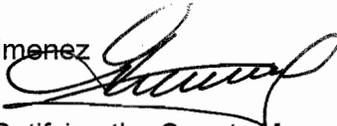
RAC/cp

# Memorandum



**Date:** October 4, 2011

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Resolution Ratifying the County Mayor's or County Mayor's Designee's Actions of Executing Three Documents for the Purposes of Implementing a Federal Beach Renourishment Project

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## **Recommendation**

It is recommended that the Board of County Commissioners approve the attached resolution ratifying the County Mayor's or County Mayor's designee's execution of (1) the State Sovereignty Submerged Lands Easement Number 130235776; (2) the Memorandum of Agreement Number OCS-A0481 between the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), the US Army Corps of Engineers and Miami-Dade County; and (3) an agreement between the Florida Department of Environmental Protection (FDEP) and Miami-Dade County for the purposes of implementing a Federal beach renourishment project administered by the US Army Corps of Engineers.

## **Scope**

The subject beach restoration projects will occur within Commissioner Barreiro's District 5.

## **Fiscal Impact/Funding Source**

State Sovereign Submerged Lands Easement Number 130235776 and Memorandum of Agreement Number OCS-A0481 provide authorization to utilize State and Federal lands for the implementation of the above-mentioned beach renourishment project and will have no fiscal impact. The FDEP agreement obligates the County to conduct monitoring activities associated with the project. The estimated cost of the monitoring activities is approximately \$250,000 over a two-year period with funding provided by the Building Better Neighborhoods General Obligation Bond ("BBC GOB") Project No. 52 - "Beach Erosion Mitigation and Renourishment Project", approved to be funded from the BBC GOB Series 2011A as approved by Resolution No. R-134-11.

## **Track Record/Monitor**

The Water Management Division of the Department of Environmental Resources Management (DERM) will be responsible for monitoring the activities related to these documents.

## **Background**

The three attached documents are required for a pending Federal beach nourishment project. The documents were executed by the County Mayor's Office and are submitted for ratification due to the urgency to proceed with the Federal project bidding and award. The renourishment project will be administered by the US Army Corps of Engineers (Corps) as part of Miami-Dade's Federal shore protection project and will renourish three critically eroded segments of Miami Beach located at 29<sup>th</sup> Street, 44<sup>th</sup> to 47<sup>th</sup> Streets, and 63<sup>rd</sup> to 70<sup>th</sup> Streets. Miami-Dade County, as the local sponsor for the project, is responsible for providing various non-Federal items, including all required approvals that are not issued directly to the Corps. DERM, as the County department designated with fulfilling the local sponsor responsibilities, will also assist the Corps with local project coordination and conduct environmental monitoring during and after the beach renourishment project.

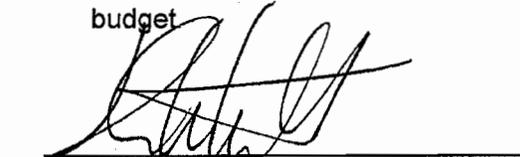
The total project cost is \$14,300,000 with Federal and non-Federal shares of \$7,150,000 each. The non-Federal share is provided by County General Obligation Bond funds and State grant funds on approximately a 50%/50% basis. This project cost is currently listed and approved in the County's capital budget. In the demand letter from the Corps dated July 14, 2011, the Corps requested that the County provide the balance of the non-Federal cost share needed for the project and indicated that \$4,614,486 in non-Federal funds remain from previous projects and would be credited to the non-Federal cost share.

On July 19, 2011, the Board adopted Resolution No. R-638-11, authorizing the advance of the remaining non-Federal balance of \$2,535,514, which was subsequently forwarded to the Corps on July 22, 2011. Once the pending State contract is final, the County will apply for the reimbursement of \$1,258,376 from the State.

The renourishment project was originally scheduled for construction in late 2011. However, in June 2011, the Corps was notified that the \$7,150,000 in Federal funding for the project would be lost if a Federal construction contract was not awarded by September 30, 2011. Therefore, the schedule was accelerated to allow time to bid the project, select a contractor and award prior to that date. In order to maintain the new schedule, the Corps requested the County provide the attached documents as soon as possible as they were needed prior to bidding and contract award. As such, it was necessary to execute and forward the documents to the Corps, with subsequent submittal of the executed documents for ratification by the Board.

The three documents that were executed and forwarded to the Corps included:

- 1) State Sovereignty Submerged Lands Easement (Attachment A): This easement provides State authorization to utilize a 500' by 500' location offshore of Miami Beach to facilitate rock disposal by the contractor. During the dredging, rock fragments greater than one inch in diameter are removed by a screening device through which the water, rock and sand slurry is pumped. The rock fragments are retained in the dredging machinery then disposed of at a designated offshore site.
- 2) Three-Party Memorandum of Agreement between Miami-Dade County, the Corps, and the Bureau of Ocean Energy Management, Regulation and Enforcement (Attachment B): One of the two sand sources used to nourish during the project is located approximately 3.2 miles offshore of Key Biscayne in Federal waters. Due to the location of this sand source, the removal of any mineral resources requires the formal approval of BOEMRE (formerly Minerals Management Service) via the execution of an MOA establishing the conditions under which the sand can be excavated.
- 3) Agreement between Miami-Dade County and the FDEP (Attachment C): This agreement obligates Miami-Dade County, through DERM, to conduct various project monitoring activities in association with the pending beach nourishment project. Traditionally, State permits issued by FDEP for beach nourishment projects contain various conditions related to environmental protection and physical monitoring of the project. However, permits issued directly to the Corps, as in this case, can only contain conditions for items required under Federal laws. Therefore, a separate agreement between the FDEP and Miami-Dade County, as the local project sponsor, will fulfill these requirements. The tasks contained in the agreement include environmental monitoring of the reefs adjacent to the areas where dredging will occur, sea turtle and shorebird monitoring, and periodic surveys of the beach fill areas. All environmental requirements will be conducted by DERM staff, with the exception of sea turtle monitoring, which will be conducted through the existing Park and Recreation sea turtle program. Survey work is conducted through the pool of survey contractors available through the County's Department of Procurement Management. Estimated costs for these activities vary based on the duration and complexity of the project, but typically are in the range of \$250,000 over a two-year period. Funds for these activities are available through existing General Obligation Bond funds allocated for beach nourishment activities, as listed and approved in the County's capital budget

  
\_\_\_\_\_  
Jack Osterholt, Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** October 4, 2011

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 18(A)(2)

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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 18(A) (2)  
10-4-11

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RATIFYING THE COUNTY MAYOR'S OR COUNTY MAYOR'S DESIGNEE'S EXECUTION OF STATE SOVEREIGNTY LANDS EASEMENT NUMBER 130235776; THE MEMORANDUM OF AGREEMENT NUMBER OCS-A0481 BETWEEN THE BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT, THE U.S. ARMY CORPS OF ENGINEERS AND MIAMI-DADE COUNTY; AND AN AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MIAMI-DADE COUNTY FOR THE PURPOSES OF IMPLEMENTING A FEDERAL BEACH RENOURISHMENT PROJECT TO BE FUNDED IN PART WITH BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND FUNDS IN THE AMOUNT OF \$250,000; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL OTHER RIGHTS CONTAINED THEREIN

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

**WHEREAS**, this Board has adopted Resolution No. R-613-11, authorizing the County Mayor or County Mayor's designee to administer County business during the Board of County Commissioners' 2011 summer recess as provided therein, and has directed that all actions taken pursuant to such authority be submitted to this Board for ratification at its October 4, 2011 meeting,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board ratifies the County Mayor's or County Mayor's designee's execution of State Sovereignty Submerged Lands Easement Number 130235776; the Memorandum of Agreement Number OCS-AO481 between the Bureau of Ocean Energy Management, Regulation and Enforcement, the U.S. Army

Corps of Engineers, and Miami-Dade County; and an agreement between the Florida Department of Environmental Protection and Miami-Dade County for the purposes of implementing a Federal beach renourishment project; authorizes the County Mayor or County Mayor's designee to execute amendments to these agreements for time extension; and authorizes the County Mayor or County Mayor's designee to exercise the provisions contained therein.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

- |                                     |                      |
|-------------------------------------|----------------------|
| Joe A. Martinez, Chairman           |                      |
| Audrey M. Edmonson, Vice Chairwoman |                      |
| Bruno A. Barreiro                   | Lynda Bell           |
| Esteban L. Bovo, Jr.                | Jose "Pepe" Diaz     |
| Sally A. Heyman                     | Barbara J. Jordan    |
| Jean Monestime                      | Dennis C. Moss       |
| Rebeca Sosa                         | Sen. Javier D. Souto |
| Xavier L. Suarez                    |                      |

The Chairperson thereupon declared the resolution duly passed and adopted this 4<sup>th</sup> day of October, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Abbie Schwaderer-Raurell

# ATTACHMENT A

This Instrument Prepared By:  
James Wright  
Recurring Revenue Section  
Bureau of Public Land Administration  
3900 Commonwealth Boulevard  
Mail Station No. 125  
Tallahassee, Florida 32399

## BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

### SOVEREIGNTY SUBMERGED LANDS EASEMENT

NO. 41341  
BOT FILE NO. 130235776  
PA NO. 02955427-001-JC

THIS EASEMENT is hereby granted by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Grantor.

WITNESSETH: That for the faithful and timely performance of and compliance with the terms and conditions stated herein, the Grantor does hereby grant to Miami-Dade County, Florida, hereinafter referred to as the Grantee, a nonexclusive easement on, under and across the sovereignty lands, if any, contained in the following legal description:

A parcel of sovereignty submerged land 2.5 miles offshore,  
East of Section 14, Township 53 South, Range 42 East,  
in the Atlantic Ocean, Miami-Dade County, as is more particularly  
described and shown on Attachment A, dated April 13, 2011.

TO HAVE THE USE OF the hereinabove described premises for a period of 10 years from March 25, 2011, the effective date of this easement. The terms and conditions on and for which this easement is granted are as follows:

1. USE OF PROPERTY: The above described parcel of land shall be used solely for a subaqueous rock (spoil) disposal area and Grantee shall not engage in any activity except as described in the State of Florida Department of Environmental Protection Consolidated Joint Coastal Permit No. 0295427-001-JC, dated March 25, 2011, incorporated herein and made a part of this easement by reference. All of the foregoing subject to the remaining conditions of this easement.
2. EASEMENT CONSIDERATION: In the event the Grantor amends its rules related to fees and the amended rules provide the Grantee will be charged a fee or an increased fee for this activity, the Grantee agrees to pay all charges required by such amended rules within 90 days of the date the amended rules become effective or by a date provided by an invoice from the Department, whichever is later. All fees charged under this provision shall be prospective in nature; i.e. they shall begin to accrue on the date that the amended rules become effective.
3. WARRANTY OF TITLE/GUARANTEE OF SUITABILITY OF USE OF LAND: Grantor neither warrants title to the lands described herein nor guarantees the suitability of any of the lands for any particular use.
4. RIGHTS GRANTED: The rights hereby granted shall be subject to any and all prior rights of the United States and any and all prior grants by the Grantor in and to the submerged lands situated within the limits of this easement.
5. DAMAGE TO EASEMENT PROPERTY AND INTERFERENCE WITH PUBLIC AND PRIVATE RIGHTS: Grantee shall not damage the easement lands or unduly interfere with public or private rights therein.
6. GRANTOR'S RIGHT TO GRANT COMPATIBLE USES OF THE EASEMENT PROPERTY: This easement is nonexclusive, and the Grantor, or its duly authorized agent, shall retain the right to enter the property or to engage in management activities not inconsistent with the use herein provided for and shall retain the right to grant compatible uses of the property to third parties during the term of this easement.
7. RIGHT TO INSPECT: Grantor, or its duly authorized agent, shall have the right at any time to inspect the works and operations of the Grantee in any matter pertaining to this easement.
8. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Grantee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

9. **ASSIGNMENT OF EASEMENT:** This easement shall not be assigned or otherwise transferred without prior written consent of the Grantor or its duly authorized agent and which consent shall not be unreasonably withheld. Any assignment or other transfer without prior written consent of the Grantor shall be null and void and without legal effect.

10. **TERMINATION:** The Grantee, by acceptance of this easement, binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Grantee, its successors and assigns. In the event the Grantee fails or refuses to comply with the provisions and conditions herein set forth or in the event the Grantee violates any of the provisions and conditions herein, this easement may be terminated by the Grantor upon 30 days written notice to Grantee. If terminated, all of the above-described parcel of land shall revert to the Grantor. All notices required to be given to Grantee by this easement or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Miami-Dade County, Florida  
Dept. of Environmental Resource Management  
701 NW 1<sup>st</sup> Court, 5<sup>th</sup> Floor  
Miami, Florida 33136

The Grantee agrees to notify the Grantor by certified mail of any changes to this address at least ten (10) days before the change is effective.

11. **TAXES AND ASSESSMENTS:** The Grantee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this easement which result from the grant of this easement or the activities of Grantee hereunder.

12. **REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES:** If the Grantee does not remove said structures and equipment occupying and erected upon the premises after expiration or cancellation of this easement, such structures and equipment will be deemed forfeited to the Grantor, and the Grantor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Grantee at the address specified in Item 10 or at such address on record as provided to the Grantor by the Grantee. However, such remedy shall be in addition to all other remedies available to Grantor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

13. **ENFORCEMENT OF PROVISIONS:** No failure, or successive failures, on the part of the Grantor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Grantor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

14. **RECORDATION OF EASEMENT:** The Grantee, at its own expense, shall record this fully executed easement in its entirety in the public records of the county within which the easement site is located within fourteen (14) days after receipt, and shall provide to the Grantor within ten (10) days following the recordation a copy of the recorded easement in its entirety which contains the O.R. Book and pages at which the easement is recorded.

15. **AMENDMENT/MODIFICATIONS:** This easement is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this easement must be in writing and must be accepted, acknowledged and executed by the Grantee and Grantor.

16. **ACOE AUTHORIZATION:** Prior to commencement of construction and/or activities authorized herein, the Grantee shall obtain the U.S. Army Corps of Engineers (COE) permit if it is required by the COE. Any modifications to the construction and/or activities authorized herein that may be required by the COE shall require consideration by and the prior written approval of the Grantor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

17. **ADDITIONAL STRUCTURES OR ACTIVITIES/EMERGENCY STRUCTURAL REPAIRS:** No additional structures shall be erected and/or activities undertaken, including but not limited to, dredging, relocation/realignment or major repairs or renovations made to authorized structures, on, in or over sovereignty, submerged lands without the prior written consent from the Grantor, with the exception of emergency repairs. Unless specifically authorized in writing by the Grantor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Grantee to administrative fines under Chapter 18-14, Florida Administrative Code. If emergency repairs are required to be undertaken in the interests of public health, safety or welfare, the Grantee shall notify the Grantor of such repairs as quickly as is practicable; provided, however, that such emergency activities shall not exceed the activities authorized by this easement.

18. **UPLAND RIPARIAN PROPERTY INTEREST:** During the term of this easement, Grantee must have satisfactory evidence of sufficient upland interest as defined in subsection 18-21.003(60), Florida Administrative Code, to the extent required by paragraph 18-21.004(3)(b), Florida Administrative Code, in order to conduct the activity described in this easement. If at any time during the term of this easement, Grantee fails to comply with this requirement, use of sovereignty, submerged lands described in this easement shall immediately cease and this easement shall terminate and title to this easement shall revert to and vest in the Grantor immediately and automatically.

8

WITNESSES:

Original Signature

Print/Type Name of Witness

Original Signature

Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL  
IMPROVEMENT TRUST FUND OF THE STATE  
OF FLORIDA

(SEAL)

BY:

Jeffery M. Gentry, Operations and Management Consultant  
Manager, Bureau of Public Land Administration, Division  
Division of State Lands, State of Florida Department of  
Environmental Protection, as agent for and on behalf of the Board  
of Trustees of the Internal Improvement Trust Fund of the State  
of Florida

"GRANTOR"

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
Jeffery M. Gentry, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State  
Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the  
Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

Notary Public, State of Florida

DEP Attorney

Printed, Typed or Stamped Name

My Commission Expires:

Commission/Serial No.

WITNESSES:

Original Signature

Printed/Typed Name of Witness

Original Signature

Printed/Typed Name of Witness

Miami-Dade County, Florida

(SEAL)

BY:

Original Signature of Executing Authority

Jack Osterholt

Typed/Printed Name of Executing Authority

Deputy Mayor

Title of Executing Authority

"GRANTEE"



STATE OF Florida

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of August, 2011, by  
Jack Osterholt as Deputy Mayor, for and on behalf of Miami-Dade County, Florida. He is personally known to me or who has  
produced \_\_\_\_\_, as identification.

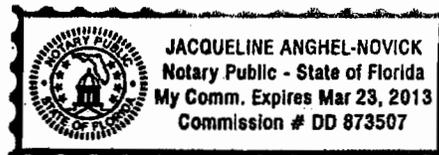
My Commission Expires:

Notary Public, State of

Commission/Serial No.

Printed, Typed or Stamped Name

Page 3 of 7 Pages  
Easement No. 41341



9

SURVEYOR'S REPORT

FOR A PROPOSED EASEMENT OF SUBMERGED LANDS LYING IN THE  
ATLANTIC OCEAN, IN MIAMI-DADE COUNTY, STATE OF FLORIDA.

SKETCH OF LEGAL DESCRIPTION

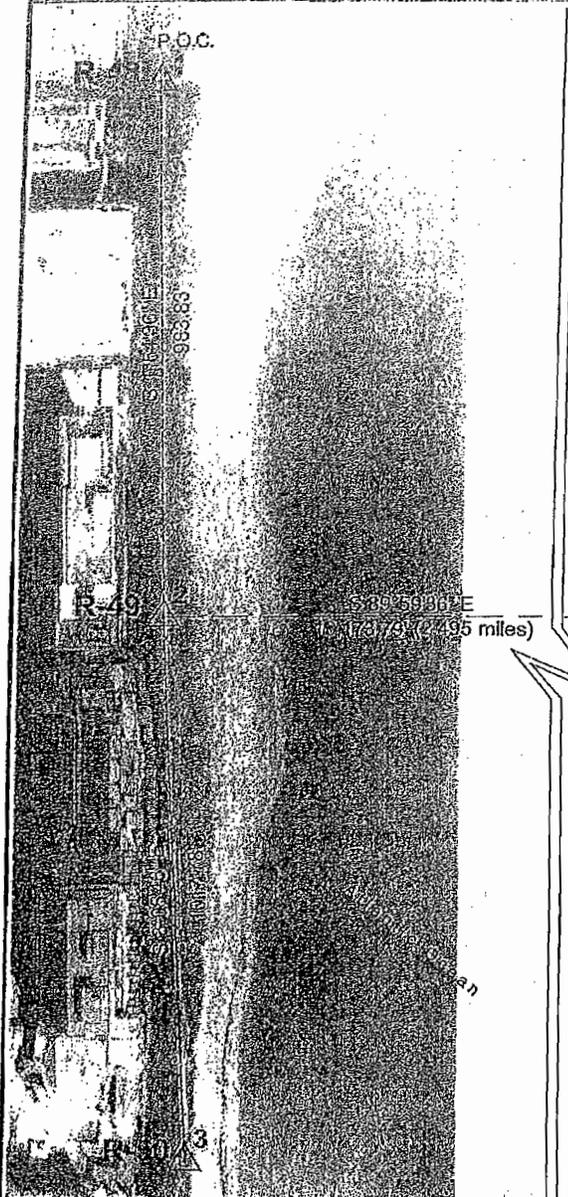
See Sketch of Legal Description, for a parcel of submerged lands lying in Miami-Dade County, State of Florida.

This Sketch and Report is not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper which can be found at the end of this Report. This Map and Report are not full and complete without the other.

LEGAL DESCRIPTION

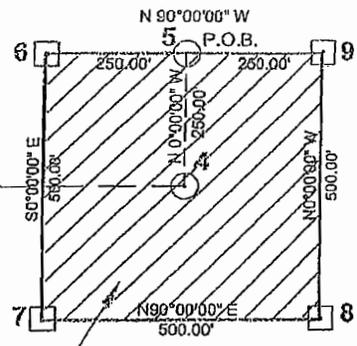
A parcel of submerged land lying in the Atlantic Ocean in Miami-Dade County, Florida, being more particularly described as follows:

Commencing at Monument R-48 of the Florida Department of Environmental Protection, the coordinates for said point being Northing: 548,123.79 feet, Easting: 945,672.42 feet; thence S 01° 54' 36" E, a distance of 983.83 feet to Monument R-49, having coordinates of Northing: 547,140.51 feet, Easting: 945,705.21 feet; thence S 89° 59' 36" E, a distance of 13,173.79 feet, having coordinates of Northing: 547,139.00 feet, Easting: 958,879.00 feet; thence N 00° 00' 00" E, a distance of 250.00 feet to the Point of Beginning of the herein described parcel of submerged land, having coordinates of Northing: 547,389.00 feet, Easting: 958,879.00 feet; thence N 90° 00' 00" W, a distance of 250.00 feet, having coordinates of Northing: 547,389.00 feet, Easting: 958,629.00 feet; thence S 00° 00' 00" E, a distance of 500.00 feet, having coordinates of Northing: 546,889.00 feet, Easting: 958,629.00 feet; thence N 90° 00' 00" E, a distance of 500.00 feet, having coordinates of Northing: 546,889.00 feet, Easting: 959,129.00 feet; thence N 00° 00' 00" W, a distance of 500.00 feet, having coordinates of Northing: 547,389.00 feet, Easting: 959,129.00 feet; thence N 90° 00' 00" W, a distance of 250.00 feet to the Point of Beginning.



STATE PLANE COORDINATES		
POINTS	NORTHING (NAD83/90)	EASTING (NAD83/90)
POINT No. 1	546123.79	945672.42
POINT No. 2	547140.61	945705.21
POINT No. 3	546124.22	945700.18
POINT No. 4	547139.00	958879.00
POINT No. 5	547389.00	958879.00
POINT No. 6	547389.00	958829.00
POINT No. 7	546889.00	958829.00
POINT No. 8	546889.00	958129.00
POINT No. 9	547389.00	958129.00

250 175 0 175ft  
 SCALE: 1" = 250'



ROCK DISPOSAL AREA

- LEGEND:
- P.O.C.: Point of Commencing
  - P.O.B.: Point of Beginning
  - △ : R Monument (from FDEP)
  - : Point on Traverse
  - ▭ : Proposed Submerged Rock Disposal Boundary Area

THIS IS NOT A BOUNDARY SURVEY  
 SEE REPORT OF LEGAL DESCRIPTION

FRANK M. VELAZQUEZ PROFESSIONAL SURVEYOR AND MAPPER SURVEYOR LICENSE # 0476	MIAMI-DADE COUNTY DERM WATER MANAGEMENT DIVISION	SKETCH OF LEGAL DESCRIPTION For a proposed easement of submerged lands lying in the Atlantic Ocean, in Miami-Dade County, State of Florida	
	701 NW 1st Court, 5th Floor MIAMI, FLORIDA 33136	DETAIL MAP	DATE: 04-13-2011
		DRAFTER: M.M.	SHEET: 2 OF 2

11

Containing 250,000 square feet of 5.739 Acres, more or less.

**DATA SOURCES:**

Information to prepare this Legal Description was furnished by the U.S. Army Corps of Engineers who provided the coordinates for the center of the Proposed Disposal Area and its dimensions, and also by the Florida Department of Environmental Protection (FDEP) who provided the coordinates of Monuments R48, R49 and R50.

**NOTES:**

Coordinates and bearings used in this description are based upon the State Plane Coordinate Transverse Mercator System, for the East Zone of Florida, North American Datum 1983, 1990 adjustment (NAD 83/90).  
Bearings are referred to North Grid.  
This is not a Boundary Survey.  
This Sketch and Legal Description were prepared exclusively to describe an easement of a parcel of submerged lands to be used as a rock disposal area only.  
This survey meets all applicable requirements of the Florida Minimum Technical Standards as contained in Chapter 5J-17.05 of the Florida Administrative Code.

**SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE:**

Frank M. Velazquez,  
Professional Surveyor and Mapper  
License Number LS 6475

Signed:

*Frank M. Velazquez*  
4/13/2011

Seal:

## ATTACHMENT B

MEMORANDUM OF AGREEMENT  
AMONG  
THE BUREAU OF OCEAN ENERGY MANAGEMENT,  
REGULATION AND ENFORCEMENT  
OF THE DEPARTMENT OF THE INTERIOR  
AND THE  
U.S. ARMY CORPS OF ENGINEERS  
OF THE DEPARTMENT OF THE ARMY  
AND  
MIAMI-DADE COUNTY, FLORIDA

REGARDING THE USE OF OUTER CONTINENTAL SHELF  
SAND RESOURCES FOR SHORE PROTECTION AND  
RESTORATION IN MIAMI-DADE COUNTY, FLORIDA

BOEMRE Negotiated Agreement No. OCS - A0481

### Title I. Explanatory Recitals

- A. Pursuant to the authority and in accordance with the requirements of the Flood Control Act of 1968 (PL 90-483, Section 203), Water Resources Development Act (WRDA) of 1974 (PL 93-251, Section 69) and the WRDA of 1986 (PL 99-662, Section 501), the Department of the Army, acting through the United States Army Corps of Engineers (USACE), with the cooperation of Miami-Dade County (hereinafter referred to as the County), is endeavoring to conduct a nourishment of beach along the County shoreline.
- B. The USACE and the County have undertaken a project in furtherance of the abovementioned goals to renourish the shoreline along Miami-Dade County, Florida (herein referred to as the "Project").
- C. To facilitate the Project, the County has procured lands, easements, and rights-of-way (collectively, "Land Rights") as necessary from upland landowners, other property right holders, public entities, and other persons and entities of appropriate scope and duration.
- D. The USACE, which is acting as the project manager for the Project, now seeks to obtain sand in a manner that minimizes costs and leverages Federal resources.

### Title II. Purpose and Authority

- A. The Department of the Interior (DOI), acting through the Bureau of Ocean Energy Management, Regulation and Enforcement (Bureau) and on behalf of its successor agencies, enters into this Memorandum of Agreement (MOA) with the County and the USACE providing for the use of up to 500,000 cubic yards of Outer Continental Shelf sand resources ("OCS sand resources") for the Project under the authority of Section 8(k)(2) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. § 1337(k)(2)). The term "OCS sand resources" means the sediment deposits found on or below the surface of the seabed on the Outer Continental Shelf

(OCS), as defined in Section 2(a) of the OCSLA (43 U.S.C. § 1331(a)). This MOA authorizes the County or the USACE, as appropriate, to use OCS sand resources from the Miami-Dade South of Government Cut-Extension (hereinafter called the SGC-Ext Borrow Area), as designated and delineated in Table 1 and on the attached maps (Attachment 1), in accordance with the terms of this MOA. After removal of the sand resources from the OCS and placement of those resources as specified in this MOA, the Bureau has no jurisdiction over those sand resources unless they return to the OCS.

**Table 1: SGC-Ext Borrow Area Coordinates. Longitude and Latitude in Geographic Coordinate System NAD 1983. Easting and Northing in Florida State Plane Coordinate System (ft) NAD 1983.**

	<u>Lat.</u>	<u>Long.</u>	<u>X (NAD83 FLE)</u>	<u>Y (NAD83 FLE)</u>
A	25 41.2747322	80 05.4739116	955443.9	493291.8
B	25 41.2743560	80 05.4135572	955775.2	493291.8
C	25 40.9635983	80 05.4159176	955775.2	491409.2
D	25 40.9644618	80 05.5545646	955014.1	491409.2
E	25 40.8288692	80 05.6104982	954712.7	490585.7
F	25 40.8598351	80 05.7084913	954173.5	490769.6
G	25 40.9532072	80 05.7572101	953902.2	491333.4
H	25 41.0094594	80 05.6977057	954226.5	491676.4
I	25 41.0650380	80 05.6972858	954226.5	492013.1
J	25 41.0301623	80 05.6183206	954661.4	491804.8
K	25 41.0198654	80 05.5339779	955124.8	491745.6
L	25 41.1006449	80 05.4901347	955362.1	492236.6
M	25 41.2644587	80 05.4888921	955362.1	493229.0

**B.** The Bureau, under the authority delegated by the Secretary of the Interior, is authorized, pursuant to Section 8(k)(2) of the OCSLA (43 U.S.C. § 1337 (k)(2)) to enter into this MOA concerning the potential use of OCS sand resources.

The Bureau has determined that the Project meets the requirements of Section 8(k)(2)(A)(i) of the OCSLA. Therefore, in accordance with Section 8(k)(2), and subject to the terms and conditions as contained herein, the Bureau hereby authorizes the use of OCS sand resources from the SGC-Ext Borrow Area identified in Table 1 for the construction of the Project. The parties acknowledge that under the terms of Section 8(k)(2)(B), the Bureau will not assess any fee against the County or the USACE for the use of the OCS sand resources described herein.

Nothing in this MOA is intended to abrogate or diminish the Secretary of the Interior's authority under the OCSLA to oversee and regulate the removal of OCS sand resources.

**C.** The USACE, which is undertaking this project pursuant to authority granted to it in accordance with Flood Control Act of 1968 (PL 90-483, Section 203), WRDA of 1974 (PL 93-251, Section 69) and the WRDA of 1986 (PL 99-662, Section 501), enters into this MOA in compliance with requirements of Section 8(k)(2)(D) of the OCSLA. The County, which has procured and assigned Land Rights of appropriate scope and duration to facilitate the Project, enters into this MOA in compliance with requirements of Section 8(k)(2)(A)(i) of the OCSLA.

Nothing in this MOA is intended to impede or hinder the County's or the USACE's ability to complete the Project or abrogate or diminish either's authority or responsibilities under applicable law, including but not limited to the Flood Control Act of 1968 (PL 90-483, Section 203), WRDA of 1974 (PL 93-251, Section 69) and the WRDA of 1986 (PL 99-662, Section 501), National Environmental Policy Act (NEPA), Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), Migratory Bird Treaty Act (MBTA), Marine Mammal Protection Act (MMPA), National Historic Preservation Act (NHPA), or the Coastal Zone Management Act (CZMA).

### **Title III. Project Description**

Authorized, under Flood Control Act of 1968 (PL 90-483, Section 203), WRDA of 1974 (PL 93-251, Section 69), WRDA of 1986 (PL 99-662, Section 501), the Project is intended to restore the proper ecological function of a beach and facilitate beach stabilization. The USACE anticipates extracting up to 500,000 cubic yards of OCS sand resources to stabilize the shoreline and reconstruct the beach. The OCS sand resources will be extracted from the SGC-Ext Borrow Area.

### **Title IV. Provisions**

A. The Bureau authorizes the use of OCS sand resources from the SGC-Ext Borrow Area. The USACE or its contractor(s) shall extract, transport, and place such OCS sand resources from the borrow area in accordance with the terms and conditions set forth below and in accordance with the Department of Environmental Protection - Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization (JCP) Permit No. 0295427-001-JC. Except as provided above, the parties agree that all other aspects of the Project's execution and completion remain as described in the Local Cooperation Agreement between the Department of the Army and Miami-Dade County, FL for Construction of the Miami-Dade County Beach Erosion Control and Hurricane Protection Project dated 12 October 1972 and the Project Cooperation Agreement for Beach Erosion Control North Haulover Beach Park dated 20 June 1986.

B. This MOA applies only to the extraction, transportation, and placement described above. This MOA shall terminate or expire upon (1) the USACE sending written notice to Chief, BOEMRE, Leasing Division, 381 Elden Street, MS 4010, Herndon, Virginia 20170, that the USACE has received sufficient OCS sand resources to complete the Project, or (2) two years from the date of execution of this MOA, whichever occurs first. Upon request by the USACE, the parties may agree to extend the terms of this MOA as necessary to provide the USACE and its contractor(s) with additional time to complete the Project. The parties acknowledge that there may be a need for future OCS sand resources for periodic maintenance, augmentation or construction purposes. The Bureau, the USACE, and the County may enter into subsequent agreements, as may be required in the future, consistent with each party's responsibilities under applicable law.

C. The Bureau, the USACE, and the County recognize that planning and coordination among the three parties will ensure that responsibilities under the OCSLA, other applicable

Federal laws, and this Congressionally-authorized Project are carried out and accommodated in an efficient and timely manner so that the project schedule will not be unnecessarily delayed or compromised. All parties recognize that the Bureau, as a Bureau in the DOI, has certain responsibilities for the orderly, timely, and efficient recovery of OCS minerals using the best available technology while ensuring environmental stewardship and compliance. Moreover, the parties further recognize that the USACE has certain stewardship and environmental compliance responsibilities that are separate and distinct from the responsibilities of the Bureau. To these ends, and with respect to the Project, the Bureau, the USACE, and the County agree to the following terms:

### **1. Notification of Activity in or near the Borrow Area**

The USACE will notify the Bureau at [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov) of the commencement and termination of operations at SGC-Ext Borrow Area within 24 hours after the USACE receives such notification from its contractor(s) for the Project. The Bureau will notify the USACE in a timely manner of any OCS activity within the jurisdiction of the DOI that may adversely affect the USACE ability to use OCS sand resources for the Project.

### **2. Environmental Responsibilities and Environmental Compliance**

The USACE is the lead agency on behalf of the Federal Government to ensure the Project complies with applicable environmental laws, including but not limited to the ESA, MSFMCA, MBTA, MMPA, NHPA, and CZMA.

The USACE will serve as the lead Federal agency for ESA Section 7 consultation concerning protected species under the purview of U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The USACE will instruct its contractor(s) to implement the mitigation and monitoring terms, conditions, and measures required by USFWS, NMFS, Florida Department of Environmental Protection (FDEP), and the Bureau pursuant to applicable Federal and state laws and regulations. The required mitigation terms, conditions, and measures are reflected in the attached Biological Opinions, Conservation Recommendations (and related correspondence), and JCP Final Order No.: 0295427-001-JC.

The USACE is responsible for compliance with the specific conditions of the JCP, including implementation of turbidity monitoring and the Sediment Quality Assurance/Quality Control Plan. Miami-Dade Department of Environmental Resources Management (DERM) is responsible for compliance with certain monitoring and contingency mitigation requirements for the Project, including implementation of the requirements of the Final Physical and Biological Monitoring Plan and Contingency Mitigation Plan. Prior to the commencement of the Project, the USACE and DERM will invite the Bureau to participate in any conference with FDEP to review specific conditions and monitoring requirements. Construction shall not commence until the pre-construction requirements of the Final Physical and Biological Monitoring Plan have been completed.

Copies of all relevant correspondence, monitoring reports, and other technical reports shall be provided to the Bureau at [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov) within 30 days of its completion. If physical

and/or biological monitoring confirms that unexpected adverse impacts are occurring in the vicinity of the SGC-Ext Borrow Area, the USACE and DERM will invite the Bureau to participate in any effort to further study the impacts and/or undertake corrective, remedial, and/or compensatory action.

### **3. Dredge Positioning**

During all phases of the Project, the USACE will ensure that the dredge and any bottom disturbing equipment is outfitted with an onboard global positioning system (GPS) capable of maintaining and recording location within an accuracy range of no more than plus or minus 3 meters. The GPS must be installed as close to the cutterhead or draghead as practicable. An exclusionary buffer of 400 feet has been established around documented hardbottom and reef features adjacent to the proposed borrow area. The borrow area design reflects the required buffer. During dredging operations, the USACE will immediately notify the Bureau at [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov) if dredging occurs outside of the approved borrow area. Anchoring, spudding, or other bottom disturbing activity is to be avoided outside the authorized borrow area on the OCS.

The USACE will provide the Bureau all Dredging Quality Management (DQM) data acquired during the project using procedures jointly developed by the USACE's National Dredging Quality Management Data Program Support Center and the Bureau. The USACE will submit the DQM data, including draghead status and depth, to [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov) biweekly. A complete DQM dataset will be submitted within 45 days of completion of the Project.

### **4. Local Notice to Mariners**

The USACE shall require its contractor(s) for the Project to place a notice in the U.S. Coast Guard Local Notice to Mariners regarding the timeframe and location of dredging and construction operations in advance of commencement of dredging.

### **5. Marine Pollution Control and Contingency Plan**

The USACE will require its contractor(s) and subcontractor(s) to prepare for and take all necessary precautions to prevent discharges of oil and releases of waste and hazardous materials that are unpermitted. In the event of an occurrence, notification and response will be in accordance with applicable requirements of 40 C.F.R. Part 300. All dredging and support operations shall be compliant with U.S. Coast Guard regulations and the Environmental Protection Agency's Vessel General Permit, as applicable. The USACE will notify the Bureau of any occurrences and remedial actions and provide copies of reports of the incident and resultant actions at [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov).

### **6. Encounter of Ordinance**

If any ordinance is encountered while conducting dredging activities at SGC-Ext Borrow Area, the USACE will report the discovery within 24 hours to Chief, BOEMRE Leasing Division, at (703) 787-1215 and [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov).

## **7. Archeological Resources**

### **Onshore Prehistoric or Historic Resources**

If the USACE discovers any previously unknown historic or archeological remains while accomplishing activity on Miami-Dade Beaches, the USACE will notify the Bureau of any finding. The USACE will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

### **Offshore Prehistoric or Historic Resources**

The final borrow area design includes the required buffer. In the event that the dredge operators discover any archaeological resource while conducting dredging operations in SGC-Ext Borrow Area, the USACE shall require that dredge and/or pump-out operations be halted immediately and avoid the resource per the requirements of the USACE specifications for unanticipated finds. The USACE shall then immediately report the discovery to Chief, BOEMRE Leasing Division, at (703) 787-1215. If investigations determine that the resource is significant, the parties shall together determine how best to protect it.

## **8. Bathymetric Surveys**

The USACE will provide the Bureau with pre- and post-dredging bathymetric surveys of SGC-Ext Borrow Area. The pre-dredging survey will be conducted within 90 days prior to dredging. The post-dredging survey will be conducted within 60 days after the completion of dredging. The USACE will also provide the Bureau a bathymetric survey performed between 1 year and 3 years following the completion of dredging. Hydrographic surveys will be performed in accordance with the USACE Hydrographic Surveying Manual EM 1110-2-1003 unless specified otherwise. One hundred percent coverage using interferometric swath or multibeam bathymetry data is preferred over single-beam data. All bathymetric data shall be roll, pitch, heave, and tide corrected. Survey lines of the specific dredge area, within Unnamed Shoal A, will be established at no greater than 50 meters intervals perpendicular to a baseline. Three equidistant cross-tie lines will be established parallel to the same baseline. Survey lines will extend at least 50 meters beyond the edge of the dredge areas. All data shall be collected in such a manner that post-dredging bathymetry surveys are compatible with the pre-dredging bathymetric survey data to enable the latter to be subtracted from the former to calculate the volume of OCS sand resources removed the shape of the excavation, and the nature of post-dredging bathymetric change.

Copies of pre-dredging and post-dredging hydrographic data will be submitted to the Bureau via [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov) within 30 days after each survey is completed. The delivery format for data submission is an ASCII file containing x,y,z data. The horizontal data will be provided in the North American Datum of 1983 (NAD '83) Florida State Plane, U.S. survey feet. Vertical data will be provided in the North American Vertical Datum of 1988 (NAVD '88), U.S. survey feet. An 8.5x11" plan view plot of the pre- and post-construction data will be provided showing the individual survey points, as well as contour lines at appropriate elevation intervals. These plots will be provided in PDF format.

## **9. Submittal of Production and Volume Information**

The USACE, in cooperation with the dredge operator, shall submit to the Bureau on a biweekly basis a summary of the dredge track lines, outlining any deviations from the original Plan. A color-coded plot of the cutterhead or drag arms will be submitted, showing any horizontal or vertical dredge violations. The dredge track lines shall show dredge status: hotelling, dredging, transiting, or unloading. This map will be provided in PDF format.

The USACE will provide at least a biweekly update of the construction progress including estimated volumetric production rates to the Bureau.

The biweekly deliverables will be provided electronically to [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov).

The project completion report, as described below, will also include production and volume information, including Daily Operational Reports.

## **10. Plans and Performance Requirements**

The USACE will provide the Bureau with a copy of the Project's "Construction Solicitation and Specifications Plan," including final project drawings, prior to construction (herein referred to as the "Plan"). No activity or operation authorized by this MOA at SGC-Ext Borrow Area shall be carried out until the Bureau has had an opportunity to review the Plan. The USACE will ensure that all operations at SGC-Ext Borrow Area are conducted in accordance with the final approved Plan and all terms and conditions in this MOA, as well as all applicable regulations, orders, guidelines, and directives specified or referenced herein.

The dredging method from the SGC-Ext. Borrow Area will be consistent with NEPA and authorizing documents as well as the project permits. The USACE will allow the Bureau to review and comment on modifications to the Plan that may affect the project area, including the use of submerged or floated pipelines to directly convey sediment from the borrow area to the placement site. Said comments shall be delivered in a timely fashion in order to not delay the USACE's construction contract or schedule. If dredging and/or conveyance methods are not wholly consistent with that evaluated in relevant NEPA documents and environmental and cultural resource consultations (described in Title IV. C. 2) and authorized by the JCP, additional environmental review may be necessary. If the additional NEPA consultations or permit modifications would impact or otherwise supplement the provisions of this MOA, an amendment may be required.

Prior to the commencement of construction, the USCAE shall provide a summary of the construction schedule. The USACE, at the reasonable request of the Bureau, shall allow access, at the site of any operation subject to safety regulations, to any authorized Federal inspector and shall provide the Bureau any documents and records that are pertinent to occupational or public health, safety, or environmental protection as may be requested.

## 11. Responsibility for Damages

The Bureau does not warrant that the OCS sand resources used in this project are suitable for the purpose for which they are intended.

## 12. Project Completion Report

A project completion report will be submitted by the USACE to the Bureau within 120 days following completion of the activities authorized under this MOA. This report and supporting materials should be sent to Chief, BOEMRE Leasing Division, 381 Eiden Street, MS 4010, Herndon, Virginia 20170 and [dredgeinfo@boemre.gov](mailto:dredgeinfo@boemre.gov). The report shall contain, at a minimum, the following information:

- the names and titles of the project managers overseeing the effort (for the USACE, the engineering firm (if applicable), and the contractor), including contact information (phone numbers, mailing addresses, and email addresses);
- the location and description of the project, including the final total volume of material extracted from the borrow area and the volume of material actually placed on the beach or shoreline (including a description of the volume calculation method used to determine these volumes);
- ASCII files containing the x,y,z and time stamp of the cutterhead or drag arm locations;
- a narrative describing the final, as-built features, boundaries, and acreage, including the restored beach width and length;
- a table, an example of which is illustrated below, showing the various key project cost elements;

	Cost Incurred as of Construction Completion (\$)
Construction	
Engineering and Design	
Inspections/Contract Administration	
Total	

- a table, an example of which is illustrated below, showing the various items of work construction, final quantities, and monetary amounts;

Item No.	Item	Estimated Quantity	Final Quantity
1	Mobilization and Demobilization		
2	Beach Fill		
3	Any beach or offshore hard structure placed or removed		

- a listing of construction and construction oversight information, including the prime and subcontractor(s), contract costs, etc.;
- a list of all major equipment used to construct the project;
- a narrative discussing the construction sequences and activities, and, if applicable, any problems encountered and solutions;
- a list and description of any construction change orders issued, if applicable;
- a list and description of any safety-related issues or accidents reported during the life of the project;
- a narrative and any appropriate tables describing any environmental surveys or efforts associated with the project and costs associated with these surveys or efforts;
- a table listing significant construction dates beginning with bid opening and ending with final acceptance of the project by the USACE;
- digital appendices containing the as-built drawings, beach-fill cross-sections, and survey data; and
- any additional pertinent comments.

### **13. Sharing of Information**

Consistent with the purpose stipulated by the parties in Title II, and to the extent allowed by law, policy and regulation, the USACE, the County, and the Bureau agree to: (1) share all information needed for or generated from the Project, including the sharing of implementation and other applicable schedules; (2) provide such information to the requesting agency as expeditiously as possible; and (3) work to ensure that all required completion report information is received.

### **14. Resolution of Disputes**

The parties agree to make every attempt to settle any disputes regarding this MOA at the lowest operational level. In the case of a (1) substantial disagreement between the Bureau and the USACE or between the Bureau and the County with respect to any aspect of the Bureau's authorization of the use of OCS sand resources in accordance with the terms and conditions as specified or (2) any alleged breach by a party of the terms and conditions as specified herein, the undersigned will designate a senior management official in their respective agencies to state the area(s) of disagreement or alleged breach in writing and present such statement to the other party for consideration. If resolution is not reached within 60 days, the undersigned shall request the active participation of the District Commander, Jacksonville District of the USACE, the Associate Director, Offshore Energy and Minerals Management, BOEMRE, and the County Mayor.

### **15. Miscellaneous**

This MOA shall not affect any pre-existing or independent relationships or obligations among the DOI, the USACE, and the County, including any other relationships or obligations between the Bureau and the USACE, or any other units of such Departments.

All rights in the SGC-Ext Borrow Area not expressly granted to the USACE and the County by the OCSLA or this MOA are hereby reserved to the Bureau. The Bureau reserves the right to authorize other uses in the SGC-Ext Borrow Area that will not unreasonably interfere with activities authorized under this MOA. The Bureau will allow the USACE and the County to review and comment on any proposed authorizations for the use of OCS sand resources in the SGC-Ext Borrow Area while this MOA is in effect.

Nothing herein is intended to conflict with current USACE, County, or Bureau directives. If the terms of this MOA are inconsistent with existing directives of any of the parties entering into this MOA, then those portions of this agreement which are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of this MOA, all necessary changes will be accomplished either by an amendment to this MOA or by entering into a new MOA, whichever is deemed expedient to the interest of the parties.

This agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original. The signatures to this agreement may be executed on separate pages, and when attached to this agreement shall constitute one complete document.

[The remainder of this page was intentionally left blank. Signature Page to follow.]

MEMORANDUM OF AGREEMENT  
AMONG  
THE BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND  
ENFORCEMENT  
OF THE DEPARTMENT OF THE INTERIOR  
AND THE  
U.S. ARMY CORPS OF ENGINEERS  
OF THE DEPARTMENT OF THE ARMY  
AND  
MIAMI-DADE COUNTY, FLORIDA

REGARDING THE USE OF OUTER CONTINENTAL SHELF  
SAND RESOURCES FOR SHORE PROTECTION AND  
RESTORATION IN MIAMI-DADE COUNTY, FLORIDA

BOEMRE Negotiated Agreement No. OCS - A0481

Signatory Page 1 of 2

\_\_\_\_\_  
Robert P. LaBelle  
Acting Associate Director for Offshore  
Energy and Minerals Management  
Bureau of Ocean Energy Management,  
Regulation and Enforcement  
Department of the Interior  
Date: \_\_\_\_\_

\_\_\_\_\_  
Alfred A. Pantano, Jr.  
Colonel, U.S. Army  
District Commander  
Jacksonville District  
U.S. Corps of Engineers  
Date: \_\_\_\_\_

\_\_\_\_\_  
See Signatory Page 2  
Mayor  
Miami-Dade County, Florida  
Date: \_\_\_\_\_

MEMORANDUM OF AGREEMENT  
AMONG  
THE BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND  
ENFORCEMENT  
OF THE DEPARTMENT OF THE INTERIOR  
AND THE  
U.S. ARMY CORPS OF ENGINEERS  
OF THE DEPARTMENT OF THE ARMY  
AND  
MIAMI-DADE COUNTY, FLORIDA

REGARDING THE USE OF OUTER CONTINENTAL SHELF  
SAND RESOURCES FOR SHORE PROTECTION AND  
RESTORATION IN MIAMI-DADE COUNTY, FLORIDA

BOEMRE Negotiated Agreement No. OCS - A0481

Signatory Page 2 of 2

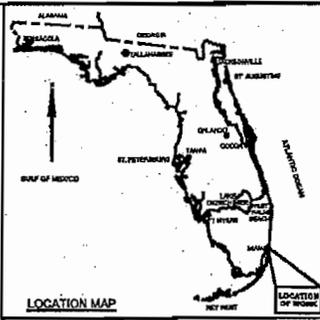
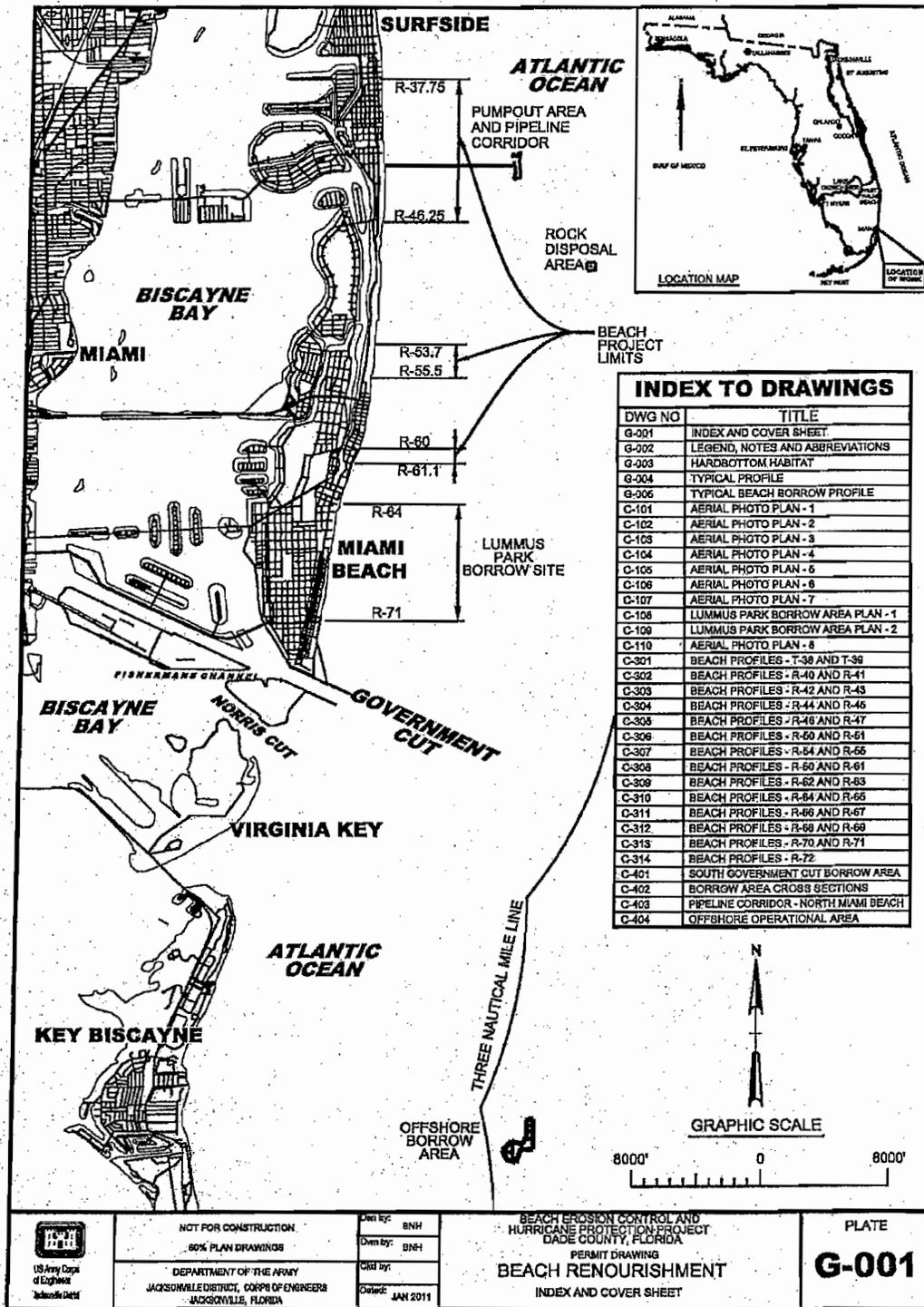
\_\_\_\_\_  
Robert P. LaBelle  
Acting Associate Director for Offshore  
Energy and Minerals Management  
Bureau of Ocean Energy Management,  
Regulation and Enforcement  
Department of the Interior  
Date: \_\_\_\_\_

\_\_\_\_\_  
See Signatory Page 1  
Alfred A. Pantano, Jr.  
Colonel, U.S. Army  
District Commander  
Jacksonville District  
U.S. Corps of Engineers  
Date: \_\_\_\_\_

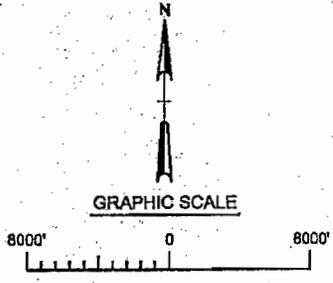
\_\_\_\_\_  
Mayor  
Miami-Dade County, Florida  
Date: July 25, 2011



Attachment 1. SGC-Ext Borrow Area Maps



INDEX TO DRAWINGS	
DWG NO	TITLE
G-001	INDEX AND COVER SHEET
G-002	LEGEND, NOTES AND ABBREVIATIONS
G-003	HARDBOTTOM HABITAT
G-004	TYPICAL PROFILE
G-006	TYPICAL BEACH BORROW PROFILE
C-101	AERIAL PHOTO PLAN - 1
C-102	AERIAL PHOTO PLAN - 2
C-103	AERIAL PHOTO PLAN - 3
C-104	AERIAL PHOTO PLAN - 4
C-105	AERIAL PHOTO PLAN - 5
C-106	AERIAL PHOTO PLAN - 6
C-107	AERIAL PHOTO PLAN - 7
C-108	LUMMUS PARK BORROW AREA PLAN - 1
C-109	LUMMUS PARK BORROW AREA PLAN - 2
C-110	AERIAL PHOTO PLAN - 8
C-301	BEACH PROFILES - T-38 AND T-39
C-302	BEACH PROFILES - R-40 AND R-41
C-303	BEACH PROFILES - R-42 AND R-43
C-304	BEACH PROFILES - R-44 AND R-46
C-305	BEACH PROFILES - R-46 AND R-47
C-306	BEACH PROFILES - R-60 AND R-61
C-307	BEACH PROFILES - R-64 AND R-65
C-308	BEACH PROFILES - R-60 AND R-61
C-309	BEACH PROFILES - R-62 AND R-63
C-310	BEACH PROFILES - R-64 AND R-65
C-311	BEACH PROFILES - R-66 AND R-67
C-312	BEACH PROFILES - R-68 AND R-69
C-313	BEACH PROFILES - R-70 AND R-71
C-314	BEACH PROFILES - R-72
C-401	SOUTH GOVERNMENT CUT BORROW AREA
C-402	BORROW AREA CROSS SECTIONS
C-403	PIPELINE CORRIDOR - NORTH MIAMI BEACH
C-404	OFFSHORE OPERATIONAL AREA



<p>US Army Corps of Engineers Jacksonville District</p>	<p>NOT FOR CONSTRUCTION 60% PLAN DRAWINGS</p>	<p>Drawn by: BNH Checked by: BNH Cadd by: Dated: JAN 2011</p>	<p>BEACH EROSION CONTROL AND HURRICANE PROTECTION PROJECT DADE COUNTY, FLORIDA</p> <p>PERMIT DRAWING <b>BEACH RENOURISHMENT</b> INDEX AND COVER SHEET</p>	<p>PLATE <b>G-001</b></p>	
	<p>DEPARTMENT OF THE ARMY JACKSONVILLE DISTRICT, CORPS OF ENGINEERS JACKSONVILLE, FLORIDA</p>				

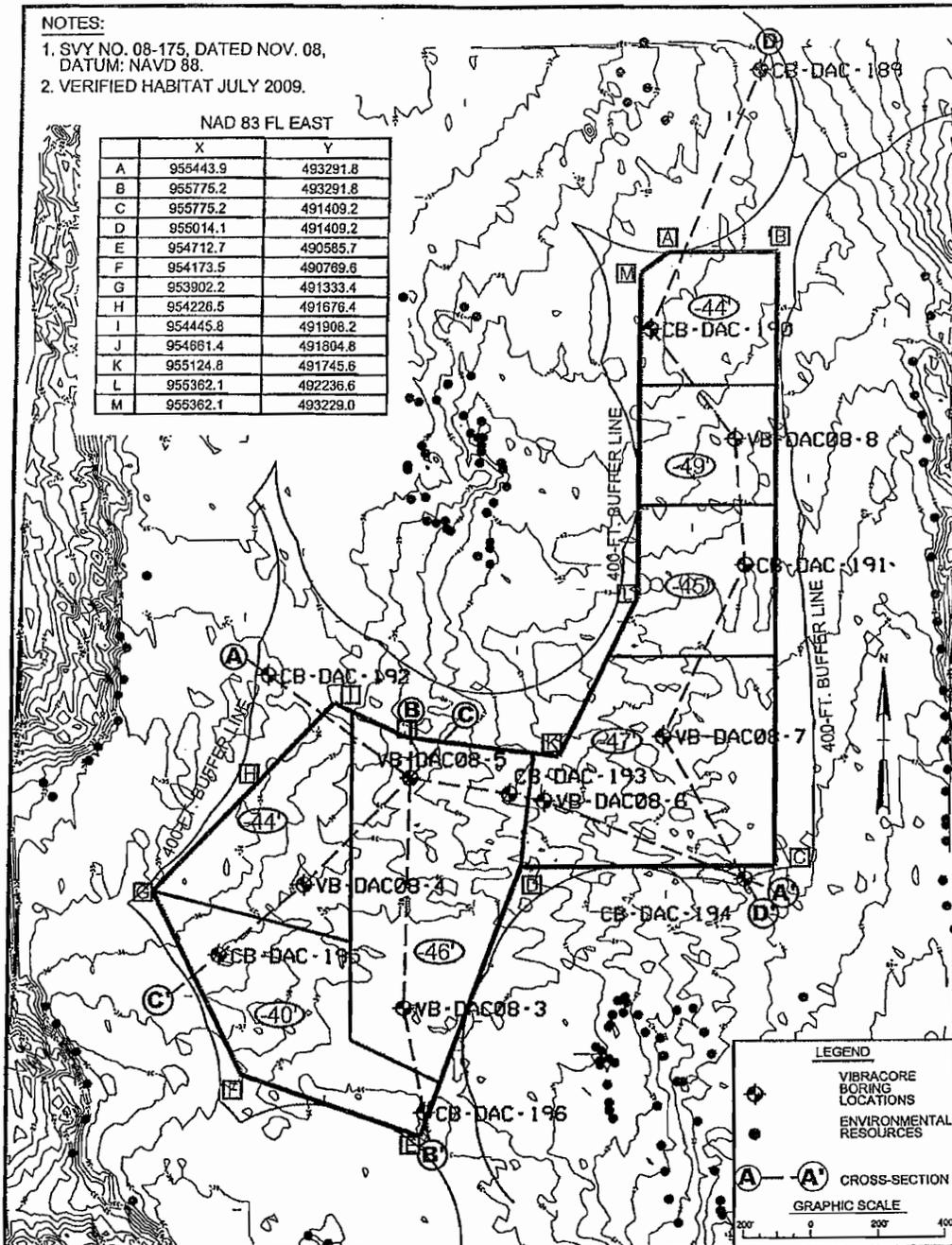
25

**NOTES:**

- SVY NO. 08-175, DATED NOV. 08, DATUM: NAVD 88.
- VERIFIED HABITAT JULY 2009.

NAD 83 FL EAST

	X	Y
A	955443.9	493291.8
B	955775.2	493291.8
C	955775.2	491409.2
D	955014.1	491409.2
E	954712.7	490585.7
F	954173.5	490769.6
G	953902.2	491333.4
H	954226.5	491676.4
I	954445.8	491908.2
J	954861.4	491804.8
K	955124.8	491745.6
L	955362.1	492236.6
M	955362.1	493229.0



NOT FOR CONSTRUCTION  
60% PLAN DRAWINGS  
DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT, CORPS OF ENGINEERS  
JACKSONVILLE, FLORIDA

Drawn by: TAM  
Own by: DPH  
Cred by: TAM  
Dated: AUG 2010

BEACH EROSION CONTROL AND HURRICANE PROTECTION PROJECT  
DADE COUNTY, FLORIDA  
PERMIT DRAWING  
BEACH RENOURISHMENT  
SOUTH GOVERNMENT CUT BORROW AREA

PLATE  
**C-401**

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## ATTACHMENT C

State of Florida Department of Environmental Protection

In re: File No. 0295427-001-JC  
Miami-Dade Federal Beach Nourishment

### AGREEMENT

I. WHEREAS, the U.S. Army Corps of Engineers (USACE) has submitted an application for, and the Florida Department of Environmental Protection (Department) intends to issue, Joint Coastal Permit No. 0295427-001-JC authorizing nourishment of Miami-Dade County beaches using sand dredged from an offshore borrow area or excavated from an accretional beach area, as described in the cited Joint Coastal Permit which is entitled "Miami-Dade Federal Beach Nourishment Project" (Project);

II. WHEREAS, the Project is part of a Congressional authorization, which provides for a federal Beach Erosion Control and Hurricane Surge Protection Project for Miami-Dade County;

III. WHEREAS, issuance of a joint coastal permit under Chapter 161 and part IV of Chapter 373 of the Florida Statutes constitutes certification of compliance with stated water quality standards pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341; and where applicable constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by section 307 of the Coastal Zone Management Act, 16 U.S.C. Section 1456, 15 C.F.R. Part 930, and Section 380.23 of the Florida Statutes;

IV. WHEREAS, Miami-Dade County, as the "Local Sponsor," is a partner with the Corps for the Project;

V. WHEREAS, Miami-Dade County, the USACE, and the Department have jointly agreed to allow Miami-Dade County to be responsible for certain monitoring and contingency mitigation requirements that supplement the final permit/water quality certificate pertaining to the Project, as specified in the attached Physical and Biological Monitoring Plan (Exhibit 1) and Contingency Mitigation Plan (Exhibit 2), which are a binding part of this agreement between the Department and Miami-Dade County;

VI. WHEREAS, this agreement is entered into in consideration of the issuance by the Department of Permit No. 0295427-001-JC;

Miami-Dade County and the Department agree as follows:

1. Miami-Dade County shall implement the attached Physical and Biological Monitoring Plan and Contingency Mitigation Plan for the Project, approved by the Department on March 24, 2011, which shall include or be supplemented by the conditions below. Changes to the conditions specified below shall require a signed amendment to this agreement, or execution of a new agreement that supersedes this agreement. Details of the aforementioned monitoring and

mitigation plans that are not specifically outlined in this agreement may subsequently be altered with written concurrence from the Department, in consultation with Florida Fish and Wildlife Conservation Commission (FWC) when appropriate.

2. Unless otherwise specified in the conditions below, all reports and notices relating to this agreement and associated monitoring and mitigation plans shall be sent to the Department's Bureau of Beaches and Coastal Systems, JCP Compliance Officer, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 (E-mail: [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us)). **All required submittals shall clearly indicate the statement "This submittal is in partial satisfaction of the Local Sponsor Agreement for the Miami-Dade Federal Beach Nourishment Project, Permit Number 0295427-001-JC."** Also, please indicate the relevant condition/item numbers under the LSA and/or the monitoring or mitigation plans that are being addressed.
3. **Physical Monitoring.** The following physical monitoring conditions shall be followed:
  - a. For the *beach placement area* and *excavation beach area*, topographic and bathymetric profile surveys shall be conducted within 90 days prior to commencement of construction, and within 60 days following completion of construction. Thereafter, monitoring surveys shall be conducted annually for a period of three (3) years and then biennially until the next beach nourishment event or the expiration of the project design life, whichever occurs first. Profile data for this project may be gathered in conjunction with annual surveys conducted for the entire Dade County Beach Erosion Control and Hurricane Surge Protection area (R-7 through R-113). The annual and biennial monitoring surveys shall be conducted during a late spring or summer month and repeated as close as practicable during that same month of the year.

The proposed nourishment sites and beach borrow site (Lummas Park) shall have *additional interim surveys*, which shall be conducted midway between the annual surveys for a period of two (2) years, to better assess fill adjustment, recovery of the borrow beach, and overall project performance.

In addition to the above proposed survey intervals, additional survey events shall be conducted *following significant storm events*. The threshold for initiating surveys following storm events shall be established jointly by Miami-Dade County, FDEP and the Corps of Engineers.

All work activities and deliverables shall be conducted in accordance with the latest update of the Bureau of Beaches and Coastal Systems (BBCS) *Monitoring Standards for Beach Erosion Control Projects, Sections 01000 and 01100*. This document is available on the Publication/Technical

Reports page of the DEP-BBCS website. Note that these standards require profiles at the beach borrow area and beach placement area to extend from a position landward of the monument sufficient to include existing dune features or other topographic features located on the beach proper out to a minimum of 3000 feet offshore (from the most landward offshore data point) or to -30 feet (NAVD 88), whichever is reached first.

See Table 1 below for summaries of the recommended monitoring areas, survey locations, survey frequency, and landward and seaward extent of profiles to be surveyed.

**Table 1: Summaries of Monitoring Areas, Survey Locations, and Landward and Seaward Extent of Profiles to be surveyed for Contract E Beach Nourishment at Miami Beach Using Offshore Borrow Area and Lummus Park, Permit No. 0295427-001-JC, Miami-Dade County.**

Project Area		Monitoring Area (at a minimum)	Survey Locations Within Monitoring Area	Survey Frequency	Landward and Seaward Extent of Profiles to be Surveyed	
Dade County Beach Erosion Control Project Area (DA-R7 to DA-R113)	Beach Placement Area	R37.75 to R46.25	R-32 to R-50	R37.75, R46.25, R53.7, R55.5, and Each of DNR-DEP Monuments	1. Pre- and Post-Construction Surveys; 2. 6-month and 18-month surveys; and 3. Annual and Biennial Surveys	See <i>Monitoring Standards for Beach Erosion Control Projects</i> , Sections 01000 (PART II.A.10) and 01100 (PART II.A.7.C).
		R53.7 to R55.5	R-50 to R-58			
		R60 to R61	R-58 to R-62			
	Excavation Area	R-64 to R-71	R-62 to R-76			
Other Area	R-7 to R-32 and R-76 to R-113	R-1 to R-32 and R-76 to R-113	Each of DNR-FDEP Monuments	Annual and Biennial Surveys		

- b. For the *offshore borrow area*, bathymetric surveys shall be conducted within 90 days prior to commencement of construction, and within 60 days following completion of construction of the project concurrently with the beach placement and excavation beach surveys required above. An earlier survey of the offshore borrow area may be substituted for the pre-construction survey, if used in the final contract plans and specifications for project construction.

Survey grid lines across the offshore borrow area shall be spaced to provide sufficient detail for accurate volumetric calculations but spaced not more than a maximum of 500 feet apart, and shall extend a minimum of 500 feet beyond the boundaries of the borrow site. All monitoring activities and deliverables shall be consistent with the *BBCS Monitoring Standards for Beach Erosion Control Projects, Section 01200*.

- c. Miami-Dade County shall submit an engineering report and the physical monitoring data to the BBCS within 90 days following completion of the post-construction survey and each annual or biennial monitoring survey.

The monitoring report shall summarize and discuss the data, the performance of the proposed beach fill project including the placement area and excavation area, and identify erosion and accretion patterns within the monitored area. In addition, the report shall include a comparative review of project performance to performance expectations and identification of adverse impacts attributable to the project.

Appendices shall include plots of survey profiles, and graphical representations of volumetric and shoreline position changes for the monitoring area. Results shall be analyzed for patterns, trends, or changes between annual surveys and cumulatively since pre-project construction conditions.

Additional reports evaluating storm effects shall be submitted if deemed necessary after consultation with the Department.

- d. Two (2) paper copies and one (1) electronic copy of the monitoring report, and one (1) electronic copy of the survey data and survey control information shall be submitted to the Bureau of Beaches and Coastal Systems in Tallahassee. When submitting any monitoring information to the Bureau (Attn: JCP Compliance Officer), please include a transmittal cover letter clearly labeled with the following at the top of each page: **"This monitoring information is submitted in accordance with Item No. [XX] of the approved Monitoring Plan for Permit No. [XX] for the monitoring period [XX]."**

4. **Marine Turtles.** The following measures shall be taken to protect marine turtles from impacts and document any impacts from the project, in accordance with Chapter 379.2431(1), F.S.:
- a. Beach nourishment may proceed during the sea turtle nesting season, provided early morning surveys for sea turtle nests are conducted daily from March 1 through September 15 or until two weeks after the last documented crawl.
    - i. Nesting surveys and egg relocations shall only be conducted by personnel with prior experience and training in nesting survey and egg relocation procedures. Surveyors must have a valid FWC permit issued pursuant to Rule 68E-1, F.A.C. Nesting surveys must be conducted daily between sunrise and 9 a.m. The contractor must not initiate work until daily notice has been received from the sea turtle permit holder that the morning survey has been completed. Surveys must be performed in such a manner so as to ensure that construction activity does not occur in any location prior to completion of the necessary sea turtle protection measures.
    - ii. Only those nests that may be affected by sand placement activities will be relocated. Nests requiring relocation must be moved no later than 9 a.m. the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling orientation; the nest relocation site must be approved by FWC Marine Turtle Management staff in the Tequesta Field office. Relocated nests must not be placed in organized groupings; relocated nests must be randomly staggered along the length and width of the beach in settings that are not expected to experience daily inundation by high tides or known to routinely experience severe erosion and egg loss, that are subject to artificial lighting, or that are historically impacted by predation. Nest relocations in association with construction activities must cease when sand placement activities no longer threaten nests.
    - iii. Nests deposited within areas where construction activities have ceased or will not occur for 65 days must be marked and left in situ unless other factors threaten the success of the nest. The Marine Turtle Permit Holder must install an on-beach marker at the nest site and/or a secondary marker at a point landward as possible to assure that future location of the nest will be possible should the on-beach marker be lost. A series of stakes and highly visible survey ribbon or string must be installed to establish a 10-foot radius around the nest. No activity shall occur within this area that could result in impacts to the nest. Nest sites must be inspected

daily to assure nest markers remain in place and the nest has not been disturbed by the restoration activity.

- b. No construction activity may commence until completion of the marine turtle survey each day.
- c. Miami-Dade County shall ensure that the project area and access sites are surveyed for marine turtle nesting activity. All nesting surveys, nest relocations screening or caging activities, etc., shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Fish and Wildlife Conservation Commission (FWC), pursuant to 68E-1, F.A.C.
- d. Immediately after completion of the beach fill placement event and prior to April 15 for three (3) subsequent years if placed sand still remains on the beach, the beach shall be tilled as described below or Miami-Dade County may follow the procedure outlined below to request a waiver of the tilling requirement. During tilling, at a minimum, the protocol provided below shall be followed:
  - i. The area shall be tilled to a depth of 36 inches. All tilling activity must be completed prior to April 15.
  - ii. An annual summary of compaction surveys and the actions taken shall be submitted to the FWC.
  - iii. If the project is completed just before the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by the U.S. Fish and Wildlife Service in an Incidental Take Statement.
  - iv. This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.
- e. To request a waiver of the tilling requirement, the may measure sand compaction in the area of restoration in accordance with a protocol agreed to by the FWC, the Department, the U.S. Fish & Wildlife Service, and Miami-Dade County to determine if tilling is necessary.
  - i. Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area) and one station shall be midway between the dune line and the high water line (normal wrack line).

- ii. At each station, the cone penetrometer shall be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments.
  - iii. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all 18 values for each transect line, and the final 6 averaged compaction values.
  - iv. If the average value for any depth exceeds 500 psi for any two (2) or more adjacent stations, then that area shall be tilled prior to April 15. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC shall be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling shall not be required.
- f. Visual surveys for escarpments along the beach fill area shall be made immediately after completion of the beach nourishment project and prior to May 1 for the following three years if placed sand still remains on the beach. All scarps shall be leveled or the beach profile shall be reconfigured to minimize scarp formation. In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:
- i. The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet, and 4 feet or higher) as well as the maximum height of all escarpments.
  - ii. Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet shall be leveled to the natural beach contour by April 15. Any escarpment removal shall be reported relative to R-monument.
  - iii. If weekly surveys during the marine turtle nesting season document subsequent reformation of escarpments that exceed 18

inches in height for a distance of 100 feet, the FWC shall be contacted immediately to determine the appropriate action to be taken. Upon written notification, Miami-Dade County shall level escarpments in accordance with mechanical methods prescribed by the FWC.

- g. A lighting survey shall be conducted from the renourished berm prior to April 1 of the first nesting season following nourishment and action taken to ensure that no lights or light sources are visible from the newly elevated beach. A report summarizing all lights visible, using standard survey techniques for such surveys, shall be submitted to FWC by April 15 and documenting all compliance and enforcement action. Additional lighting surveys shall be conducted monthly through August and results reported by the 15<sup>th</sup> of each month.
- h. Miami-Dade County shall arrange a meeting between representatives of the contractor, the Department, the FWC, and the permitted person responsible for marine turtle nest monitoring at least 30 days prior to the commencement of work on this project. At least 15 days advance notice shall be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle protection measures.
- i. Reports on all nesting activity shall be provided for the initial nesting season and for a minimum of three additional nesting seasons. Monitoring of nesting activity in the seasons following construction shall include daily surveys and any additional measures authorized by the FWC. Reports submitted shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any), dates of construction and names of all personnel involved in nest surveys and relocation activities. Data should be reported separately for the nourished areas and for an equal length of adjacent beach that is not nourished in accordance with the attached Table. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted by January 15 of the following year.

**Table 2: Marine Turtle Monitoring for Beach Restoration Projects.** The following monitoring is required for beach restoration projects. Reports summarizing the nesting should be submitted to the Tequesta office with a copy to the Tallahassee office by January 15 of the subsequent year. Data for nesting activity on the nourished beach and on an equal length of beach that is not nourished shall be reported separately, and should include numbers of nests lost to erosion or washed out. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets).

Characteristic	Parameter	Measurement	Variable
Nesting Success	False crawls - number	Visual assessment of all false crawls	Number and location of false crawls in project and adjacent areas: any interaction of the turtle with obstructions, such as groins, seawalls, or scarps, should be noted.
	False crawl - type	Categorization of the stage at which nesting was abandoned	Number in each of the following categories: emergence-no digging, preliminary body pit, abandoned egg chamber.
	Nests	Number	The number of marine turtle nests in the project and adjacent areas should be noted. Nest location along the profile, including the distance from the waterline and the landward structure, shall be recorded. Any abnormal cavity morphologies should be reported as well as whether turtle touched groins, seawalls, or scarps during nest excavation
		Lost Nests	The number of nests lost to inundation, erosion depredated, vandalized, or the number with lost markers that could not be found.
	Lighting Impacts	Disoriented sea turtles	The number of disoriented hatchlings and adults shall be documented and reported in accordance with existing FWC protocol for disorientation events.
Reproductive Success	Emergence & hatching success	Standard survey protocol	Numbers of the following: unhatched eggs, depredated nests and eggs, live pipped eggs, dead pipped eggs, live hatchlings in nest, dead hatchlings in nest, hatchlings emerged, disoriented hatchlings, depredated hatchlings

- j. In the event a sea turtle nest is excavated during construction activities, all work shall cease in that area immediately and the permitted person responsible for egg relocation for the project shall be notified so the eggs can be moved to a suitable relocation site.

- k. Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the FWC at 1-888-404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
5. **Shorebirds.** The following measures shall be taken to protect migratory shorebirds from impacts or document impacts related to the project:
- a. *Shorebird Monitors.* Shorebird surveys should be conducted by trained, dedicated individuals (Shorebird Monitor) with proven shorebird identification skills and avian survey experience. Credentials of the Shorebird Monitor shall be submitted to the FWC Regional Biologist for review and approval. Shorebird Monitors will use the survey protocols below.
  - b. *Nesting Season Surveys.* Shorebird Monitors shall review and become familiar with the general information and data collection protocols outlined on the FWC's Beach-Nesting Bird Website [www.flshorebirddatabase.org](http://www.flshorebirddatabase.org). An outline of what data should be collected, including downloadable field data sheets, is available on the website.
    - i. The nesting season is generally April 1 to September 1, but some nesting may occur through September.
    - ii. Nesting season surveys shall begin on April 1 or 10 days prior to project commencement (including surveying activities and other pre-construction presence on the beach), whichever is later, and be conducted daily throughout the construction period or through August, whichever is earlier. Weekly surveys of the project site shall continue through August or through fledgling or loss of identified nests or hatchlings, whichever is later.
    - iii. Nesting season surveys shall be conducted in all potential beach-nesting bird habitat within the project boundaries that may be impacted by construction or pre-construction activities during the nesting season. Portions of the project in which there is no potential for project-related activity during the nesting season may be excluded.

- iv. Surveys for detecting new nesting activity will be completed on a daily basis prior to movement of equipment, operation of vehicles, or other activities that could potentially disrupt nesting behavior or cause harm to the birds or their eggs or young.
  - v. Surveys should be conducted by traversing the length of the project area and visually inspecting, using binoculars or spotting scope, for the presence of shorebirds exhibiting breeding behavior.
  - vi. If an ATV or other vehicle is needed to cover large project areas, the vehicle must be operated at a speed **less than 6 mph**, shall be run at or below the high-tide line, and the Shorebird Monitor will stop at no greater than 200 meter intervals to visually inspect for nesting activity.
- c. Once breeding is confirmed by the presence of a scrape, eggs, or young, the Bird Monitor will notify the Regional Nongame Biologist of the FWC at (561) 648-3205 within 24 hours.
- i. All breeding activity will be reported to the Beach-Nesting Bird website within one week of data collection.
  - ii. Observations of non-breeding shorebirds should be reported to the Shorebird-Seabird Occurrence Database, as described below.
- d. *Non-Breeding Shorebird Surveys.* Data collected on non-breeding shorebirds should be compatible with, and reported to, the Shorebird-Seabird Occurrence Database (<http://myfwc.com/>).
- i. Surveys for non-breeding shorebirds should begin 14 days prior to construction commencement and be conducted once every 2 weeks for at least one year post-construction. Data collected during these surveys will provide valuable information on the use of nourished beaches to shorebirds.
  - ii. Survey for non-breeding shorebirds will include all potential shorebird habitat within the project boundary.
  - iii. Data should be entered into the database within one month of collection.
- e. *Buffer Zones and Travel Corridors.* Within the project area, Miami-Dade County shall establish a 300-foot-wide buffer zone around any location where shorebirds have been engaged in nesting behavior, including territory defense. Any and all construction activities, including movement of vehicles, shall be prohibited in the buffer zone.

- i. The width of the buffer zone shall be increased if birds appear agitated or disturbed by construction or other activities in adjacent areas.
  - ii. Site-specific buffers may be implemented upon approval by the FWC as needed.
  - iii. Reasonable and traditional pedestrian access should not be blocked where nesting birds will tolerate pedestrian traffic. This is generally the case with lateral movement of beach-goers walking parallel to the beach at or below the highest tide line. Pedestrian traffic may also be tolerated when nesting was initiated within 300 feet of an established beach access pathway. Miami-Dade County shall work with FWC staff to determine if pedestrian access can be accommodated without compromising nesting success.
  - iv. Designated buffer zones must be posted with clearly marked signs around the perimeter. If pedestrian pathways are approved within the 300-foot buffer zone, these should be clearly marked. These markings shall be maintained until nesting is completed or terminated. In the case of solitary nesters, nesting is not considered to be completed until all chicks have fledged.
  - v. No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the buffer area.
- f. *Travel Corridors.* Travel corridors identified in consultation with FWC will be designated and marked by Miami-Dade County outside the buffer areas. Heavy equipment, other vehicles, or pedestrians may transit past nesting areas in these corridors. However, other activities such as stopping or turning shall be prohibited within the designated travel corridors adjacent to the nesting site. To the degree possible, Miami-Dade County or the contractor should maintain some activity within these corridors on a daily basis, without directly disturbing any shorebirds documented on site or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction. Passive methods to modify nesting site suitability must be approved by FWC Regional Biologist for that region.
- g. *Notification.* If shorebird nesting occurs within the project area, a bulletin board shall be placed and maintained by Miami-Dade County (unless otherwise provided by the USACE) in the construction area with the location map of the construction site showing the bird nesting areas and a warning, clearly visible, stating that "BIRD NESTING AREAS ARE PROTECTED BY THE FLORIDA THREATENED AND

ENDANGERED SPECIES ACT AND THE STATE AND FEDERAL  
MIGRATORY BIRD ACTS”.

- h. *Placement of Equipment and Sand.* If it will be necessary to extend construction pipes past a known shorebird nesting site, then whenever possible those pipes should be placed landward of the site before birds are active in that area. No pipe or sand shall be placed seaward of a known shorebird nesting site during the shorebird nesting season.
6. **Hardbottom/Reef.** The following conditions shall be followed to protect hardbottom/reef resources from impact due to the project:
- a. All resource protection and biological surveys, data collection, analysis, and reporting will be supervised by a marine biologist with an advanced degree (M.S. minimum) and at least 3 years experience in assessment and evaluation of coral reef and hardground habitats.
  - b. **PIPELINE CORRIDOR AND OPERATIONAL BOX**
    - i. The Department has approved a 50-foot-wide pipeline corridor that extends offshore from approximately DEP monument R-42.5. Prior to pipeline placement within this 50-foot corridor, Miami-Dade County shall identify a smaller (25-foot-wide) corridor within the approved corridor that best avoids impacts to coral resources. The coordinates of this 25-foot corridor shall be identified using a Differential Global Positioning System (DGPS) and transmitted to the USACE and the Department prior to use of the pipeline.
    - ii. Inside the above-mentioned 25-foot corridor, prior to pipeline placement, Miami-Dade County shall relocate any hard coral (scleractinians) greater than 25 centimeters (10 inches) in height from within 25 feet of hardbottom/sand transition areas and from the top of prominent areas of higher relief (e.g., where ledges are greater than 25 centimeters high) within the 25-foot corridor. Colonies shall be relocated a minimum of 50 meters (~150 feet) from the pipeline corridor in a similar habitat and depth. However, colonies with signs of disease and colonies that are not expected to survive transplantation shall not be relocated.
    - iii. In conjunction with the transplantation efforts mentioned above, prior to pipeline placement, all *Acropora cervicornis* colonies greater than 10 centimeters (4 inches) in diameter found within the 25-foot-wide corridor shall be relocated at least 50 meters from the pipeline corridor to areas of similar habitat and depth.

- iv. Within 48 hours following notification of pipeline placement from the contractor of the USACE, weather pending, Miami-Dade County shall survey the entire length of the pipeline placed on hardbottom, and document impacts to the reef and any corals that remained in place. To the maximum extent practical, Miami-Dade County shall restore or relocate all hard (scleractinian) and soft (octocoral) corals damaged or dislodged by the pipeline within seven (7) days of notification of the pipeline placement unless signs of disease are noted. Coordinates of relocated colonies will be recorded using DGPS technology.
- v. Each relocated or salvaged scleractinian coral will be evaluated for size, growth and health characteristics twice for the initial year after relocation and annually thereafter for an additional two (2) years. General health/survivability and heights of representative octocorals shall be assessed at the same time for each group of transplanted octocoral within a 10-meter by 10-meter area.
- vi. A cumulative summary report and data for coral damaged by the pipeline and/or relocated shall be submitted to the Department within 90 days of completion of transplantation and each subsequent monitoring event. The report shall include representative photographs, colony sizes, overall health and percent live/dead tissue.
- vii. During construction, the USACE or their Contractor may notify Miami-Dade County of impacts associated with the pipeline or pump-out equipment based on surveys conducted twice a week. Within seven (7) days of such notification, pending safe dive conditions, Miami-Dade County shall restore or relocate any coral damaged in association with the impact, according to the protocol outlined above.
- viii. The final impact from placement, use and removal of the pipeline and pump-out equipment shall be determined by quantitative surveys conducted within seven (7) days following notification that the equipment has been removed, pending safe dive conditions. Measurements shall include counts of all impacted corals and calculated area of damage. This shall be accompanied by representative digital photos and video of the pipeline corridor following removal.
- ix. A summary report of all pipeline corridor and operational box impacts, including calculation of total impact area and number/type of impacted coral colonies, shall be submitted within 90 days of completion of the final impact survey.

### C. LUMMUS PARK EXCAVATION AND R-41 PLACEMENT AREAS

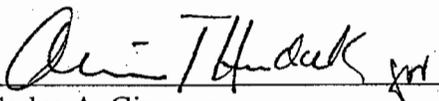
- i. At least 30 days prior to construction, monitoring stations shall be established on benthic/reef habitat within 1000 feet offshore of the Lummus Park Excavation Area and beach placement area near R-41 to evaluate potential construction and sediment impacts in locations to be approved by the Department.
  - ii. Once a week for at least four (4) weeks prior to construction, Miami-Dade County shall conduct benthic monitoring at the Lummus Park and R-41 monitoring locations to establish a baseline. Monitoring shall be conducted for sediment accumulation (using sediment traps), sedimentation on benthic organisms, and coral stress. Sediment thickness along Department-approved transects shall also be measured at one-meter intervals.
  - iii. Benthic monitoring for the parameters identified in the pre-construction surveys shall be conducted twice a week while Lummus Park excavation and R-41 placement activities are underway and once a week for at least four (4) weeks following completion of construction at Lummus Park and near R-41.
  - iv. Signs of significant increase in sedimentation or stress during the project shall be reported within 24 hours to the Department and the USACE.
  - v. A report summarizing the results of the monitoring, including data, shall be submitted to the Department within 90 days of completion of monitoring.
- d. **SGC-EXTENSION (SOUTH) BORROW AREA**  
A report summarizing the results of any benthic monitoring conducted adjacent to the SGC-Extension (South) Borrow Area, including data, shall be submitted to the Department within 120 days of completion of dredging within this borrow area.
7. **Contingency Mitigation.** If monitoring reveals that hardbottom/reef impacts occur as a result of a project that exceed the quantity of impacts (i.e., 126 square meters) previously mitigated in 2002, then additional mitigation shall be required.
- a. Mitigation for temporary impacts to hardbottom/reef (e.g., due to pipeline placement or sedimentation) shall be offset with the placement of artificial reef at the ratio of 1:1.

- b. Artificial reef shall be comprised of limestone boulders or low-relief pre-fabricated concrete/limestone modules, final design to be approved by the Department.
  - c. Reef shall be constructed in currently-established artificial reef sites identified as the "South Beach Artificial Reef Site," in approximately 20 feet of water or, as an alternative, the "Port of Miami Mitigation Site A," in approximately 25 feet of water.
  - d. A final mitigation plan based on the documented level of impact and the specific materials to be used shall be submitted to the Department for review and approval within 90 days of completion of the post project impact assessment.
  - e. Construction of the required mitigation shall be completed within one (1) year of the completion of the project.
8. This agreement constitutes Final Agency Action under Chapter 120, Florida Statutes. Miami-Dade County hereby recognizes and agrees that compliance with the terms herein shall be enforceable by the Department against the County utilizing all appropriate remedies available, including, but not limited to, the provisions of Chapters 161.054; 373; 403.121, 403.141, 403.161; and 120, Florida Statutes.
9. Within thirty (30) days from the execution of this agreement, Miami-Dade County shall cause this agreement to be recorded in the public records of Miami-Dade County, Florida. A copy of the recorded agreement shall be sent to the Department within five (5) days of recording.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

MIAMI-DADE COUNTY

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Michael R. Barnett, P.E., Chief  
Bureau of Beaches & Coastal Systems

  
\_\_\_\_\_  
Carlos A. Gimenez  
County Mayor

\_\_\_\_\_  
DATE

*July 25, 2011*  
\_\_\_\_\_  
DATE

  
*Blagovest Salas*  
Clerk