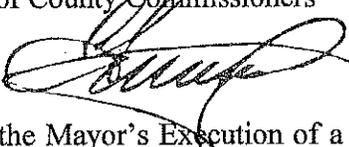


Memorandum



Date: June 4, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Ratifying the Mayor's Execution of a Local Operating Agreement between the US Army Corps of Engineers and Miami-Dade County to Administer the Federal Programmatic General Permit SAJ-42

Agenda Item No. 3(B)(3)

Recommendation

It is recommended that the Board approve the attached resolution ratifying the Mayor's execution of a Local Operating Agreement between the US Army Corps of Engineers (Army Corps) and Miami-Dade County to administer the federal Programmatic General Permit SAJ-42.

Scope

This Agreement will streamline certain coastal permitting in tidal waters of Miami-Dade County.

Fiscal Impact/Funding Source

This Agreement does not involve any transfer of funds. No additional impacts on current and future annual County budgets are anticipated.

Track Record/Monitor

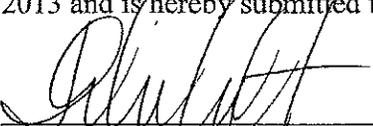
The Coastal and Wetlands Resources Section Manager, Lisa Spadafina, in the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (RER-DERM), will implement the activities under this Local Operating Agreement.

Background

Under this Local Operating Agreement (Exhibit A), the Army Corps authorizes Miami-Dade County to administer the Programmatic General Permit SAJ-42 (Exhibit B) on behalf of the Army Corps for the benefit of the public that performs specific types of coastal construction work generally located in tidal waters at single family properties. In conjunction with existing State of Florida delegation for use of state-owned submerged lands, RER-DERM will provide a "one-stop shop" for all county, state and federal environmental authorizations required for such work.

RER-DERM previously administered the federal SAJ-42 Permit from 1981 through permit expiration in 2010. The Army Corps recently reauthorized the permit and asked the County to again administer it on their behalf. Since 2010, RER-DERM has received many requests to reinstate the permit to assist contractors and property owners by streamlining the environmental permitting process.

In order to provide this service immediately and pursuant to Sections 2-9 and 2-10 of the Code of Miami-Dade County, the attached Local Operating Agreement was signed by the Mayor on March 19, 2013 and is hereby submitted to the Board for ratification.



Jack Osterholt, Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: June 4, 2013

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

SUBJECT: Agenda Item No. 3(B)(3)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 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. 3(B)(3)
6-4-13

RESOLUTION NO. _____

RESOLUTION RATIFYING THE MAYOR'S EXECUTION OF A LOCAL OPERATING AGREEMENT BETWEEN THE U.S. ARMY CORPS OF ENGINEERS AND MIAMI-DADE COUNTY TO ADMINISTER THE FEDERAL PROGRAMMATIC GENERAL PERMIT SAJ-42; AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE ANY NECESSARY MODIFICATIONS AND AMENDMENTS TO THE AGREEMENT; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXERCISE THE PROVISIONS CONTAINED HEREIN

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

WHEREAS, the subject Local Operating Agreement with the US Army Corps of Engineers will authorize Miami-Dade County to administer the federal Programmatic General Permit SAJ-42 provisions for regulation of certain coastal construction work conducted in tidal waters generally at single family properties; and

WHEREAS, in conjunction with existing State of Florida delegation for use of State-owned submerged lands, the Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management (RER-DERM), will provide all state and county environmental authorizations required for such work under the Class I Coastal Construction Program; and

WHEREAS, the subject Local Operating Agreement will authorize RER-DERM to also provide the federal environmental authorization for such work, thereby benefitting the public by reducing regulatory process; and

WHEREAS, Section 2-9 of the Code of Miami-Dade County authorizes the Mayor to enter into contracts with governmental entities on behalf of this County and Section 2-10 of the Code requires that contracts authorized under Section 2-9 be ratified by the County Commission,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies the Mayor's execution of a Local Operating Agreement, attached to this resolution as Exhibit A, between the US Army Corps of Engineers and Miami-Dade County to administer the federal Programmatic General Permit SAJ-42, attached to this resolution as Exhibit B; authorizes the Mayor or Mayor's designee to execute any necessary modifications and amendments to this Local Operating Agreement; and authorizes the Mayor or Mayor's designee to exercise the provisions contained herein.

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:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of June, 2013. 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.

Thomas H. Robertson

EXHIBIT A

LOCAL OPERATING AGREEMENT
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS
AND
MIAMI-DADE COUNTY

REGARDING THE REGULATION OF
A) SHORELINE STABILIZATION; B) MAINTENANCE DREDGING IN UPLAND-
CUT ARTIFICIAL RESIDENTIAL CANALS; C) SUBAQUEOUS UTILITY AND
TRANSMISSION LINES; D) STORMWATER OUTFALLS; E) MINOR
STRUCTURES; F) PIERS/DOCKS AND APPURTENANCES; AND G) PRIVATE
SINGLE-FAMILY FLOATING VESSEL PLATFORMS LOCATED IN WATERS OF
THE UNITED STATES, EXCLUDING FEDERALLY MAINTAINED NAVIGATION
CHANNELS AND FLOOD CONTROL PROJECTS IN MIAMI-DADE COUNTY,
PURSUANT TO PROGRAMMATIC GENERAL PERMIT (PGP) SAJ-42

This Agreement is made and entered into this 29th day of April 2013, by and between the U.S. Army Corps of Engineers (Corps) and Miami-Dade County. By execution of the agreement, the Corps authorizes the Miami-Dade County Department of Regulatory and Economic Resources (RER), or its successor, to administer the SAJ-42 on its behalf.

WITNESSETH

WHEREAS, the Corps is responsible for the issuance of Federal permits for activities located in the waters of the United States, including the work described in the SAJ-42;

WHEREAS, RER is responsible for the verification of permits for activities located in the waters of Miami-Dade County including the work described in the PGP SAJ-42;

WHEREAS, new procedures have been adopted by the Corps addressing issues regarding review of potential impacts on the West Indian (Florida) manatee (*Trichechus manatus*), green sea turtles (*Chelonia mydas*), loggerhead sea turtles (*Caretta caretta*), hawksbill sea turtles (*Eretmochelys imbricata*), Kemp's ridley sea turtles (*Lepidochelys kempii*), leatherback sea turtles (*Dermochelys coriacea*), smalltooth sawfish (*Pristis pectinata*) and Johnson's seagrass (*Halophila johnsonii*) for a number of types of projects that do not require further coordination with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service; and

WHEREAS, RER has staff and a structured regulatory program that can expedite the processing of Corps permitting, improve overall efficiency and reduce duplication of regulatory effort within Miami-Dade County and projects that do not comply with the appropriate conditions of the SAJ-42 will be required to submit satisfactory plans to the Corps and receive written authorization from the District Engineer prior to commencement of work.

I. AUTHORIZATION

The Miami-Dade County RER, or its successor, is authorized to administer the programmatic general permit SAJ-42 subject to its terms and conditions once it has been issued by the Corps.

II. OPERATING AGREEMENT

A. PROCEDURES

1. RER shall administer the SAJ-42 in conjunction with the issuance of a Class I, Miami-Dade County Coastal Construction Permit for those projects that meet the terms and conditions of the SAJ-42.
2. RER shall require a location map, 8.5 inch by 11 inch project sketches, the latitudinal and longitudinal coordinates, and other relevant information as part of the application process.
3. The Corps shall notify RER of any known structures within Miami-Dade County that were constructed without federal authorization or any proposed structures that receive a denial (with or without prejudice) of the permit application. RER cannot verify the SAJ-42 for these unauthorized structures or previously denied projects. RER will forward any applications for a previously denied structure or an unauthorized structure to the Corps for review.
4. RER shall utilize the most recently approved version of the dichotomous key entitled, **"The Corps of Engineers, Jacksonville District, and State of Florida Effect Determination Key for the Manatee in Florida (Manatee Key)"** in order to review the project for impacts to the West Indian Manatee. Projects that require coordination with the U.S. Fish and Wildlife Service (USFWS), as indicated by the Manatee Key, shall be forwarded to the Corps for processing.
5. The Corps shall provide guidance to RER on the implementation of the Manatee Key in the review of minor projects that are proposed in all waters accessible by manatees.
6. RER may refer any application to the Corps for processing to determine the applications' consistency with the SAJ-42.
7. The Corps may request any application under consideration for the SAJ-42 to be forwarded to its office for review and RER shall comply with said request.
8. RER shall implement the U.S. Army Corps of Engineers'/National Marine Fisheries Service's, **"Construction Guidelines in Florida for Minor Piling-**

Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat, U.S. Army Corps of Engineers/National Marine Fisheries Service, August 2001" (Construction Guidelines) to the greatest extent practicable. Application of the Construction Guidelines is not anticipated to be practicable for marginal docks. Marginal docks shall not exceed a width of 5 feet over water. These Construction Guidelines are subject to revision at any time. It is the parties' intention that the most recent version of these Construction Guidelines will be utilized during the evaluation of the permit application.

9. RER shall implement the National Marine Fisheries Service/U.S. Army Corps of Engineers "**Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's seagrass (*Halophila johnsonii*) National Marine Fisheries Service/U.S. Army Corps of Engineers - February 2002.**" These guidelines are subject to revision at any time. It is the parties' intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application. For purposes of these guidelines, Johnson's seagrass no longer has a designated growing season and benthic surveys may be conducted year-round.

10. The Corps shall provide assistance to RER as necessary, should any questions arise.

B. MODIFICATION OF AGREEMENT

This agreement may be modified in writing at any time as necessary by mutual consent of the Corps and RER. Modifications may be made in whole, by part, or by section; and upon approval shall supersede previous versions of this Agreement. Modifications to this Agreement shall be approved and signed by the District Engineer for the Corps and the Mayor of Miami-Dade County, or their designees.

C. IMPLEMENTATION OF AGREEMENT

1. Within thirty (30) days of receipt of a complete, Class I application, RER shall review the proposed work for compliance with the SAJ-42 and shall determine which of the following categories the application falls under:
 - a. GREEN: Projects that are in compliance with the SAJ-42 are considered GREEN and shall be processed by RER. Upon issuance of the RER permit, the following language shall be included:
"Your project has been reviewed and is in compliance with the U. S. Army Corps of Engineers Programmatic General Permit SAJ-42. Therefore, provided you follow all special conditions that are

attached to your RER permit, additional authorization or permits from the Corps will not be required. Failure to comply with all of the conditions in your RER permit may result in a violation of Federal law.”

- b. YELLOW: Projects that are not able to be determined to be in compliance with the SAJ-42 are considered YELLOW. RER shall forward copies of the RER permit application and drawings to the Corps’ Miami Regulatory Office within thirty (30) days of RER’s determination. Should the applicant revise the project to comply with the SAJ-42, RER may change the determination from YELLOW to GREEN and process the application accordingly. In such case, RER must notify the Corps within thirty (30) days of the change in determination.
 - c. RED: RER shall forward the permit application to the Corps and notify the applicant that the permit application has been forwarded to the Corps. If the proposed project is RED because it is within 100 feet of a Federal Channel, the RER permit will be held in abeyance pending receipt of Corps authorization.
- 2. Projects determined, in accordance with the Manatee Key, to be a “may affect” or “may affect, not likely to adversely affect” with further consultation required, shall be coded RED and shall be forwarded to the Corps for review.
 - 3. If RER is uncertain as to how to apply the Manatee Key for a particular project, the application shall be coded YELLOW and forwarded to the Corps for a determination.
 - 4. Projects located within tidal waters of Miami-Dade County that are not accessible to manatees would have no direct or indirect effects on the manatee.

D. REPORTING REQUIREMENTS

- 1. The Corps may review RER’s administration of the SAJ-42 program at any time to determine if it is being properly administered and enforced.
- 2. RER shall submit a quarterly spreadsheet report to the Corps for all permits for which the SAJ has been verified. The report shall include the following information: property owner’s name, applicant’s name (if different from

owner), physical address of the property, folio number, scope of work, contractor, and RER permit number.

3. RER shall provide notice to the Corps of all YELLOW and RED projects within thirty (30) days of the RER determination.

If additional information is needed for the Corps to effectively review RER's performance in administering and enforcing the SAJ-42, RER shall, upon request from the Corps, provide additional information concerning permitting, assessment techniques, and other relevant information

E. COMPLIANCE AND ENFORCEMENT

1. RER shall refer all after-the-fact applications to the Corps for processing. No after-the-fact SAJ-42 permits will be verified.
2. The Corps is the entity that may make compliance and enforcement determinations with respect to any work completed or structures constructed with or without the benefit of a verification of an SAJ-42 or any other Corps permit.

F. NOTIFICATION REQUIREMENTS

1. RER shall notify the Corps prior to promulgating new or modified rules or policies that may affect the administration of the SAJ-42.
2. The Corps shall notify RER prior to promulgating new or modified rules or policies that may affect the administration of the SAJ-42.
3. All notices and reports required or permitted to be given under the terms and provisions of this agreement by a party to the other party shall be provided to :

District Commander
U. S. Army Corps of Engineers
ATTN: SAJ-42
9900 S.W. 107th Avenue, Suite 203
Miami, Florida 33176
Robert.J.Kirby@usace.army.mil

Miami-Dade County
Department of Regulatory and Economic Resources
Coastal and Wetlands Resources Section
701 NW 1st Court, 6th Floor
Miami, FL 33136
dermcr@miamidade.gov

Or to such addresses as may be provided by the parties in writing.

G. TERMINATION OF AGREEMENT

1. Either party may terminate this Agreement upon ninety (90) days written notice.

H. SEVERABILITY

If any part of this Agreement is determined to be invalid or unenforceable, the other provisions of this Agreement shall remain in full force and effect, provided that both parties agree that the material purposes of this Agreement can be determined and effectuated.

Nothing contained herein shall constitute a waiver by Miami-Dade County of its sovereign immunity under Section 768.28 Florida Statutes.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer of the Jacksonville District, U.S. Army Corps of Engineers.

APPROVED BY:

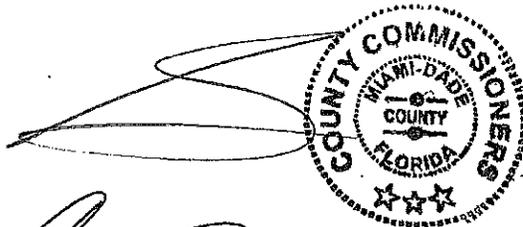


ALAN M. DODD
Colonel, Corps of Engineers
Commanding

29 Apr 2013

Date

APPROVED BY:



CARLOS A. GIMENEZ
Mayor, Miami-Dade County



Date

3/19/13

Approved for legal sufficiency
JG 3/19/13

EXHIBIT B



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
Regulatory Division
P.O. Box 4970
Jacksonville, Florida 32232-0019

Regulatory Division

PROGRAMMATIC GENERAL PERMIT SAJ-42

A) SHORELINE STABILIZATION; B) MAINTENANCE DREDGING IN UPLAND-CUT ARTIFICIAL RESIDENTIAL CANALS; C) SUBAQUEOUS UTILITY AND TRANSMISSION LINES; D) STORMWATER OUTFALLS; E) MINOR STRUCTURES; F) PIERS/DOCKS AND APPURTENANCES; AND G) PRIVATE SINGLE-FAMILY FLOATING VESSEL PLATFORMS LOCATED IN WATERS OF THE UNITED STATES, EXCLUDING FEDERALLY MAINTAINED NAVIGATION CHANNELS AND FLOOD CONTROL PROJECTS IN MIAMI-DADE COUNTY, FLORIDA

Upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act, general authority is given to Miami-Dade County Department of Regulatory and Economic Resources (RER) to administer this permit for shoreline stabilization, maintenance dredging in upland-cut artificial residential canals, subaqueous utility and transmission lines, stormwater outfalls, minor structures, piers/docks and appurtenances, and private single-family floating vessel platforms located in waters of the United States, excluding federally maintained navigation channels and flood control projects in Miami-Dade County, Florida, subject to the following conditions:

A. SPECIAL CONDITIONS FOR SHORELINE STABILIZATION:

1. The work herein includes the installation of seawalls/bulkheads with necessary backfill in principally residential canals in Miami-Dade County.
2. The work herein includes the repair of seawalls/bulkheads with necessary backfill within one-foot of the existing bulkhead; the installation or repair of seawall caps and/or batter piles; the installation or repair of riprap in front of existing seawalls; and the installation or repair of unconsolidated riprap revetments.
3. The repair and replacement and installation of seawalls/bulkheads or riprap placement shall not exceed 500 feet in length.
4. If backfill is utilized, then a suitable filter material shall be installed to maintain the stability of the fill material. Any backfill below the plane of the mean or ordinary high water line shall not exceed one cubic yard per running foot.

5. Bulkhead installation with necessary backfill shall not extend any farther waterward than existing bulkheads in the immediate area or more than 5 feet waterward of the Mean High Water Line or Ordinary High Water line, whichever is less. The fill will not exceed 1 cubic yard per running foot below the plane of the mean or ordinary high water line.

6. The backfill must be from upland sources and consist of suitable material, free from toxic pollutants in other than trace quantities.

7. This permit does not authorize any filling, except for backfill behind the bulkheads.

8. At no time should this permit be construed to allow filling of or construction in mangroves or other wetlands, seagrass, hard bottom/live bottom communities, or any other special aquatic sites for any purpose including additional development.

9. In addition to the eight (8) Special Conditions listed above, the permittee must abide by all of the Special Conditions which are listed in paragraph 'H' below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

B. SPECIAL CONDITIONS FOR MAINTENANCE DREDGING:

1. The work authorized herein is limited to existing artificial residential canals in Miami-Dade County, Florida.

2. This general permit only authorizes maintenance dredging of the above areas. No additional dredging/excavation is allowed under this permit other than that necessary to restore the canal to its original excavated depth. Where no previous permit has been issued by the Corps or by RER on behalf of the Corps for construction or maintenance dredging of the existing manmade canal, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water.

3. The material dredged/excavated under this permit shall not exceed 4,000 cubic yards per project per year.

4. Turbidity control measures will be used to control water quality and the work must be in accordance with State Water Quality Standards in Chapter 62.302, and sections 62-4.242 and 62-4.244 in the Florida Administrative Code. Turbidity control measures may include but are not limited to, turbidity control curtains, the exclusive use of suction dredging, the exclusive use of closed "clam shell" dredging, or any other technique necessary to reduce turbidity to no more than background turbidity. The Florida Department of Environmental Protection (DEP) may require the applicant to submit a daily turbidity report which may be verified by state or local government inspectors.

5. Excavated spoil material shall be deposited at self-contained upland areas that will prevent spoil material and/or return water from reentering any water of the United States or interfering with natural drainage.

6. No discharge of dredged or fill material into waters of the United States is authorized by this permit, under this section.

7. Excavation of wetlands or areas containing submerged aquatic vegetation is not authorized by this general permit.

8. This permit does not authorize the removal of plugs or the connection of any canal to waters of the United States.

9. In addition to the eight (8) Special Conditions listed above which are only applicable to maintenance dredging of existing upland-cut residential canals, the permittee must abide by all of the Special Conditions which are listed in paragraph 'H' below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

C. SPECIAL CONDITIONS FOR SUBAQUEOUS UTILITY AND TRANSMISSION LINES:

1. The work herein authorized includes the installation and maintenance of subaqueous utility and transmission lines laid on, embedded in, or horizontally direction drilled beneath the bottom of navigable waters of the United States in Miami-Dade County, excluding the deep-draft, federally maintained channels.

2. All utility and/or transmission lines, cables, conduits, pipes, etc., authorized by this general permit must be installed a minimum of 14 feet below the authorized depth of any shallow-draft Federal Channel it crosses. The 14-foot criterion applies to the entire authorized width of the channel, plus a minimum of 25 feet outside the channel edges to allow for maintenance of the side slopes. Crossings of Federally maintained deep-draft channels are not authorized under this permit.

3. No utility and/or transmission lines will be embedded in the bottom of State Class I or Class II waters, aquatic preserves, or in areas of seagrass beds and/or hard bottom/live bottom communities.

4. Dredged or fill material placed as backfill or bedding for subaqueous utility and transmission lines must not change the preconstruction bottom contours. Excess material must be removed to a self-contained upland area that will prevent spoil material and/or return water from reentering any water of the United States or interfering with natural drainage.

5. The permittee will install signs at the shoreline to notify navigational interests of the location of subaqueous utility and transmission lines.

6. Where the proposed transmission line is to be installed in navigable waters of the United States, at least two weeks prior to the start of the authorized work, the permittee must notify the National Oceanic Atmospheric Administration (NOAA) and the Corps' office in writing that the work is commencing, and again upon completion of the work. The permittee shall notify the District Engineer at the letterhead address, attention Regulatory Division, and NOAA, at Nautical Data Branch N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, MD 20910-3282. This notification will include "as-built plans," signed and sealed by a registered surveyor/engineer licensed in the State of Florida, that certify the project is constructed as authorized, and must include an accurate (within plus or minus 1 foot) depiction of the location and configuration of the completed activity in relation to the mean high water of the navigable water.

7. The permittee shall defend and hold the U.S. Government harmless from any and all claims by reason of the placement and installation of the transmission lines authorized by this permit.

8. In addition to the seven (7) Special Conditions listed above which are only applicable to the installation and maintenance of subaqueous utility and transmission lines, the permittee must abide by all of the Special Conditions which are listed in paragraph 'H' below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

D. SPECIAL CONDITIONS FOR STORM WATER OUTFALLS:

1. Structures authorized under this general permit are storm water outfalls and appurtenances.

2. Authorization is contingent upon issuance of lawfully required National Pollutant Discharge Elimination System permits (Section 402 of the Clean Water Act) from the U.S. Environmental Protection Agency, Florida Department of Environmental Protection, State Water Management District, or their legally authorized delegate.

3. This general permit authorizes dredging at storm water outfalls. No additional dredging is authorized under this general permit other than that which would be necessary to restore the discharge structure to its original permitted excavated depth. Where no previous permit has been issued by the Corps or by RER on behalf of the Corps for construction or maintenance dredging of the existing storm water outfall, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water.

4. Turbidity control measures will be used to control water quality and the work must be in accordance with State Water Quality Standards in Chapter 62.302, and sections 62-4.242 and 62-4.244 in the Florida Administrative Code. Turbidity control measures may include but are not limited to, turbidity control curtains, the exclusive use of suction dredging, the exclusive use of closed "clam shell" dredging, or any other technique necessary to reduce turbidity to no more than background turbidity. The Florida Department of Environmental Protection (DEP) may

require the applicant to submit a daily turbidity report which may be verified by state or local government inspectors.

5. Excavated spoil material shall be deposited at self-contained upland areas that will prevent spoil material and/or return water from reentering any water of the United States or interfering with natural drainage.

6. In addition to the five (5) Special Conditions listed above which are only applicable to the construction and maintenance of stormwater outfalls, the permittee must abide by all of the Special Conditions which are listed in paragraph 'H' below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

E. SPECIAL CONDITIONS FOR MINOR STRUCTURES:

1. The work herein authorized will be for minor structures to include:
 - a. Single mooring pilings.
 - b. Small mooring dolphins (limited to one cluster of four or fewer pilings).
 - c. Non-commercial information signage.
 - d. Boat lifts and their appurtenant catwalks, hoists, davits.
 - e. Other minor structures that would have less environmental impact than a small dock.

2. No work shall be authorized by this permit within the boundaries of any national or state park.

3. No activity shall be authorized under this general permit which by its size or location may adversely affect water quality, fish and wildlife habitat, wetlands, or emergent or submerged aquatic vegetation. Adverse impacts to aquatic vegetation from dock construction may be ameliorated by strict adherence to the attached joint U.S. Army Corps of Engineers'/National Marine Fisheries Service's, "**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat, U.S. Army Corps of Engineers/National Marine Fisheries Service, August 2001.**" (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) Unless otherwise specifically approved by the National Marine Fisheries Service, dock construction authorized under the SAJ-42 must comply with the above, and additionally, because of concerns about adverse impacts to Johnson's seagrass (*Halophila johnsonii*), dock construction in the lagoon (as well as canal) systems on Florida's east coast from the Miami-Dade County boundary south to and including central Biscayne Bay (Miami-Dade County) must also comply with the construction guidelines titled "**Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's seagrass (*Halophila***

johnsonii) National Marine Fisheries Service/U.S. Army Corps of Engineers - February 2002.” (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) Note: Both of the Construction Guidelines may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.

4. In addition to the three (3) Special Conditions listed above which are only applicable to the construction of minor structures, the permittee must abide by all of the Special Conditions which are listed in paragraph ‘H’ below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

F. SPECIAL CONDITIONS FOR PIERS/DOCKS AND APPURTENANCES:

1. Structures authorized under this general permit include the repair and replacement or installation of private single-family piers (including docks, marginal docks, viewing platforms, fishing piers, and other similar structures with similar purpose) not to exceed 2 slips unless a Florida Fish and Wildlife Conservation Commission approved Manatee Protection Plan is more restrictive. This would include normal appurtenances such as boat hoists, boat shelters with open sides, stairways, walkways, mooring pilings, dolphins, and maintenance of same.

2. Repair or rehabilitation of currently serviceable multi-slip watercraft access structures may be authorized under this permit provided all of the following are met: 1) the project is not located in an Important Manatee Area, 2) the number of slips is not increased; 3) the number of existing slips is not in question; 4) the improvements to the existing watercraft access structures do not result in increased watercraft usage. (see Manatee Key See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx> for more details).

3. No living, fueling, or storage facilities over navigable waters of the United States are authorized under this general permit

4. The structure shall be consistent with other structures in the area.

5. No activity shall be authorized under this general permit which by its size or location may adversely affect water quality, fish and wildlife habitat, wetlands, or emergent or submerged aquatic vegetation. Adverse impacts to aquatic vegetation from dock construction may be ameliorated by strict adherence to the attached joint U.S. Army Corps of Engineers’/National Marine Fisheries Service’s, “**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat, U.S. Army Corps of Engineers/National Marine Fisheries Service, August 2001.**” (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) Unless otherwise specifically approved by the National Marine Fisheries Service, dock construction authorized under the SAJ-42 must comply with the above, and additionally, because of concerns about adverse impacts to Johnson’s seagrass (*Halophila johnsonii*), dock construction in the lagoon (as well as canal) systems on Florida’s east coast from the Miami-Dade County boundary south to and including central Biscayne Bay (Miami-Dade County) must

also comply with the construction guidelines titled “Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson’s seagrass (*Halophila johnsonii*) National Marine Fisheries Service/U.S. Army Corps of Engineers - February 2002.” (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) *Note: Both of the Construction Guidelines may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

6. Structures (including any mooring areas) constructed on principally residential canals must not extend waterward more than 25% of waterway width. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee’s expense.

7. In addition to the six (6) Special Conditions listed above which are only applicable to the construction of single-family piers, the permittee must abide by all of the Special Conditions which are listed in paragraph ‘H’ below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

G. SPECIAL CONDITIONS FOR PRIVATE SINGLE-FAMILY FLOATING VESSEL PLATFORMS:

1. The work herein authorized will be for private single-family floating vessel platforms (FVPs) to include the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts.

2. FVPs must float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use. FVPs must not be used for mooring vessels that remain in the water when not in use.

3. FVPs must not exceed a combined total of 200 square feet whether associated with a dock or whether attached to a bulkhead on a parcel of land where there is no other docking structure.

4. This permit does not authorize the placement of floating vessel platforms or construction in mangroves or other wetlands, seagrass habitat or other areas capable of supporting submerged aquatic vegetation, hard bottom/live bottom communities, or any other special aquatic sites for any purpose.

5. In addition to the four (4) Special Conditions listed above which are only applicable to FVPs, the permittee must abide by all of the Special Conditions which are listed in paragraph ‘H’ below. These Special Conditions are applicable to all structures and/or work authorized under this general permit.

H. SPECIAL CONDITIONS FOR ALL WORKS:

1. No work shall be performed until the applicant submits satisfactory plans for the proposed activity and receives written authorization from Miami-Dade County.

2. A residential canal is defined as a manmade waterway surrounded on both sides by uplands. Federally maintained navigation and/or flood control projects are not considered to be residential canals and SAJ-42 is not authorized for use within them.

3. Wetlands are those areas that are periodically inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

4. No structures or work shall be authorized by this general permit in areas designated as American Crocodile critical habitat or in Biscayne Bay National Park Protection Zone, or in Federal Manatee Sanctuaries, refuges, motorboat prohibited zones, or no entry zones.

5. No activity shall be authorized under this general permit which by its size or location may adversely affect water quality, fish and wildlife habitat, *Acropora spp.* or other hard bottom/live bottom communities, mangroves or other wetlands, emergent vegetation, or the following species of submerged aquatic vegetation: shoal grass (*Halodule wrightii*), paddle grass (*Halophila decipiens*), star grass (*Halophila engelmanni*), Johnson's seagrass (*Halophila johnsonii*), sago pondweed (*Potamogeton pectinatus*), clasping-leaved pondweed (*Potamogeton perfoliatus*), widgeon grass (*Ruppia maritima*), manatee grass (*Syringodium filiforme*), turtle grass (*Thalassia testudinum*), tapegrass (*Vallisneria americana*), horned pondweed (*Zannichellia palustris*), and eel grass (*Zostera marina*). Indirect effects include secondary and cumulative effects. In addition, the project cannot have adverse effects on any other essential fish habitat.

6. No work shall be performed until after the permittee provides notification to the owner(s) or operator(s) of any marked utilities in the work area.

7. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect, impact, or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work in the vicinity and notify the Corps. The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. A cultural resources assessment may be required of the permit area, if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO and the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work in the vicinity shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist. The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist, SHPO and the Corps.

e. In the unlikely event that human remains are encountered on federal or tribal lands, or in situations where Archaeological Resources Protection Act of 1979, or Native American Graves Protection Repatriation Act of 1990 applies, all work in the vicinity shall immediately cease and the Permittee immediately notify the Corps. The Corps shall then notify the appropriate THPO(s) and SHPO. Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. After such notification, project activities on federal lands shall not resume without written authorization from the Corps, and/or appropriate THPO(s), SHPO, and federal manager. After such notification, project activities on tribal lands shall not resume without written authorization from the appropriate THPO(s) and the Corps.

8. Conformance with descriptions and quantities contained herein does not necessarily guarantee authorization under this general permit.

9. The District Engineer reserves the right to require that any request for authorization under this general permit be evaluated as a Standard Permit.

10. Prior to issuance of authorization, the dichotomous key entitled "The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida, 2011" (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) will be used to determine potential manatee impacts. Projects evaluated under the manatee key with a "may affect" or a "may affect, not likely to adversely affect," requiring additional correcep with the U.S. Fish and Wildlife Service to the manatee must be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act and are not authorized under this general permit. *Note: "The manatee key may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

11. The permittee shall comply with the Standard Manatee Construction conditions (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>).

12. The permittee shall comply with the Sea Turtle and Smalltooth Sawfish Construction Conditions (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>).

13. No activity shall be authorized under this general permit which is likely to adversely affect a Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat.

14. No structure or work that is in Federal manatee sanctuaries, refuges, motorboat prohibited zones, or "no entry zones" shall be authorized by SAJ-42. Applications for work in these areas will be forwarded to the Corps for processing.

15. Activities qualifying for this programmatic general permit (PGP) must be authorized by the applicable permit or exemption under Part IV of Chapter 373, F.S., and by any authorization required to use or occupy state-owned submerged lands (SSL) under Chapter 253, F.S., and, as applicable, Chapter 258, F.S. Such permit, issued by the Department of Environmental Protection, a water management district under s. 373.069, F.S., or a local government with delegated authority under s. 373.441, F.S., will provide the applicable Water Quality Certification (WQC) or waiver thereto, and Coastal Zone Consistency Concurrence (CZCC). WQC is waived for activities authorized under this RGP that qualify for an exemption under s. 403.813(1) or 373.406, F.S., or the rules of the Florida Administrative Code (F.A.C.) adopted under Part IV of Chapter 373, F.S. The Corps under 33 C.F.R. § 325.2(b)(2) may presume CZCC for the above exempt activities by operation of s. 380.23(7), F.S., provided the activity receives the applicable authorization to use and occupy SSL under Chapter 253, F.S., and, as applicable, Chapter 258, F.S., and the rules of the F.A.C. adopted thereunder. The Corps shall not be precluded from acting on a request to use this RGP before the applicable SSL authorization is granted.

16. For projects proposed adjacent to Federally maintained channels, no structure, including mooring piles, authorized under this general permit shall be within the established setback.

17. Any structure authorized under this general permit must not interfere with general navigation.

18. For projects authorized under the SAJ-42 in navigable waters of the United States, the permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. A

structure authorized under this regional general permit must not interfere with general navigation.

19. This regional general permit will be valid for a period of five years from the date specified above unless suspended or revoked by the District Engineer prior to that date. If SAJ-42 expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on SAJ-42 will remain in effect provided the activity is completed within 12 months of the date SAJ-42 expired or was revoked.

20. The permittee shall perform all work in accordance with the general conditions for permits. The general conditions attached hereto are made a part of this permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY

Alan M. Dodd
Colonel, Corps of Engineers
Commanding