

# Memorandum



Date: June 5, 2018

To: Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

Agenda Item No. 8(J)(2)

From: Carlos A. Gimenez  
Mayor

Subject: Resolution Authorizing Grant Agreement Between Miami-Dade County and the University of Miami for the Propagation, Maintenance, Outplanting, and Monitoring of 10,000 Staghorn Corals

## **RECOMMENDATION**

It is recommended that the Board approve the accompanying resolution authorizing the Grant Agreement between Miami-Dade County and the University of Miami in connection with the Propagation, Maintenance, Outplanting, and Monitoring of 10,000 Staghorn Corals over a three-year time period with one one-year option to renew in an amount not to exceed \$500,000.

## **SCOPE**

PortMiami is located within District 5. However the impact of this agenda item is countywide as PortMiami ("Port") is a regional asset and generates employment for residents throughout Miami-Dade County.

## **FISCAL IMPACT/FUNDING SOURCE**

Under the Grant Agreement, the University of Miami will outplant up to approximately 10,000 Acropora coral colonies over a period of three years with one option to renew for one year in an amount not to exceed \$500,000. This funding will be paid from federal funds authorized through Section 2106 of the Water Resources Reform and Development Act of 2014 and the Department of the Army/Miami-Dade County Memorandum of Understanding executed on August 7, 2017. The schedule for transfer of funds to the University of Miami will be approximately as follows: FY(2018) - \$164,000, FY(2019)- \$185,000, FY(2020) - \$138,000, and FY(2021) - \$13,000.

The Grant Agreement will not incur any other annual recurring costs.

## **DELEGATED AUTHORITY**

There are no delegated authorities beyond that specified in the accompanying Resolution, which are the authority for the Mayor or the Mayor's designee to execute the Grant Agreement in substantially the form attached to the Resolution, and to exercise all County rights therein, including renewal and termination.

## **TRACK RECORD/MONITOR**

The Seaport Department staff members responsible for monitoring the Agreement are Elizabeth Ogden, Assistant Director, Capital Development and Becky Hope, Environmental Manager, Capital Development.

## **BACKGROUND**

In November 2007, Congress approved the Water Resource Development Act of 2007 ("WRDA"), which, among other things, authorized the Deep Dredge Project ("Project"), which deepened the Port's outer and south channel to a controlling depth of minus 50 feet. On March 3, 2009, this Board passed Resolution No. R-203-09, approving a Design Agreement between the United States Army Corps of Engineers ("COE") and the County, under which the County agreed to fund 31.36 percent of the design, environmental permitting, and engineering cost to design and permit the project. On August 31, 2011, the Florida Department of Environmental Protection ("DEP") issued a Notice of Intent to issue a Consolidated Environmental Resource Permit, Associated Variances and State Sovereign Submerged Land Authorizations in connection with the Project (collectively, the "DEP Proposed Permit"). The DEP Proposed Permit was publicly noticed with an

advertisement in the Miami Herald on September 4, 2011, and an Amended DEP Proposed Permit was later publicly noticed on November 10, 2011 in the Miami Herald.

On November 28, 2011, Dan Kipnis, Tropical Audubon Society, Inc. ("Tropical Audubon Society") and Biscayne Bay Waterkeeper, Inc. ("BB Waterkeeper") filed a petition challenging the Amended Proposed Permit and requested an administrative hearing under applicable Florida Statutes. On May 1, 2012, the Board passed Resolution No. R-422-12, authorizing the execution of a Settlement Agreement ("2012 Settlement Agreement") that authorized placement of \$1,310,000 into Miami-Dade County Biscayne Bay Environmental Enhancement Trust Fund, and a donation of \$100,000 in aggregate to Tropical Audubon Society and BB Waterkeeper in exchange for dismissal of the claims and release of all actions, challenges and objections to the Project. DEP then issued the final Permit ("Final DEP Permit") for the Project.

Through Resolution No. R-650-12, the Board authorized the County to execute a Project Partnership Agreement with the COE for the construction of the Project, post-construction environmental monitoring and regulatory requirements, and the County's issuance of port revenue bonds to finance part of the Project.

On July 16, 2014, Dan Kipnis, Tropical Audubon Society, BB Waterkeeper, Miami-Dade Reef Guard Association ("Reef Guard"), Coral Morphologic, and the Sierra Club Miami Group submitted a statutorily-required pre-suit Notice Letter to the U.S. Department of the Army and Great Lakes Dredge and Dock, among others, threatening to seek injunctive relief under the Endangered Species Act ("ESA") and the Final DEP Permit if the COE failed to cease certain Project-related dredging activities within 60 days of the notice. Subsequently, Dan Kipnis, Tropical Audubon Society, BB Waterkeeper, and Reef Guard filed a civil suit against the COE in federal court seeking preliminary and permanent injunctive relief alleging that the COE violated the ESA and the Final DEP Permit. Following on a motion made by the COE, the district court later (i) dismissed Dan Kipnis, Tropical Audubon Society and BB Waterkeeper from the suit on the ground that their asserted claims against the COE had each previously been waived and released through the 2012 Settlement Agreement, approved by Resolution No. R-422-12 and (ii) as to Reef Guard, the lone remaining defendant dismissed all state and DEP claims as well as a portion of Reef Guard's asserted ESA claim since it had not been included in Reef Guard's statutorily-required pre-suit notice letter. Although the County remains a non-party to this federal suit, it has elected to participate in the action since the Project Partnership Agreement with the COE requires the County to advance all federal funding relating to the Project, including this suit. Therefore, it was in the best interest of the County to participate in the action and now settle the suit instead of a costly and lengthy civil suit in which the County is obligated to advance funds.

The COE, Dan Kipnis, Tropical Audubon Society, BB Waterkeeper, Reef Guard, and non-party County participated in a court-ordered mediation. Through mediation, the parties have reached a Settlement Agreement, subject to separate Board approval. Part of the Settlement Agreement is the approval and execution of this Grant Agreement with the University of Miami, to propagate, maintain, outplant, and monitor up to approximately 10,000 *Acropora cervicornis* (staghorn) coral colonies over a period of three years with one one-year option to renew for a maximum amount of \$500,000.



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Jack Osterholt  
Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**DATE:** June 5, 2018

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(J)(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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_\_, 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. 8(J)(2)  
6-5-18

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

RESOLUTION APPROVING GRANT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE UNIVERSITY OF MIAMI FOR THE PROPAGATION, MAINTENANCE, OUTPLANTING, AND MONITORING OF 10,000 STAGHORN CORALS OVER A THREE YEAR TIME PERIOD WITH ONE OPTION TO RENEW FOR A PERIOD OF ONE YEAR IN AN AMOUNT NOT TO EXCEED \$500,000.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE GRANT AGREEMENT AND EXERCISE THE PROVISIONS THEREIN, INCLUDING RENEWAL AND TERMINATION

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

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board:

**Section 1.** Approves the Grant Agreement between Miami-Dade County and the University of Miami for the propagation, maintenance, outplanting, and monitoring of 10,000 staghorn corals over a three year time period with one option to renew for a period of one year in an amount not to exceed \$500,000.00 in substantially the form attached hereto and made a part thereof.

**Section 2.** Authorizes the County Mayor or County Mayor's Designee to execute this Grant Agreement and exercise the provisions therein, including renewal and termination.

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:

- |                                     |                   |
|-------------------------------------|-------------------|
| Esteban L. Bovo, Jr., Chairman      |                   |
| Audrey M. Edmonson, Vice Chairwoman |                   |
| Daniella Levine Cava                | Jose "Pepe" Diaz  |
| Sally A. Heyman                     | Barbara J. Jordan |
| Joe A. Martinez                     | Jean Monestime    |
| Dennis C. Moss                      | Rebeca Sosa       |
| Sen. Javier D. Souto                | Xavier L. Suarez  |
| District 5 - Vacant                 |                   |

The Chairperson thereupon declared the resolution duly passed and adopted this 5<sup>th</sup> day of June, 2018. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

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

Approved by County Attorney as  
to form and legal sufficiency.

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Cynji A. Lee

**MIAMI-DADE COUNTY/UNIVERSITY OF MIAMI**  
**GRANT AGREEMENT**

Miami-Dade County, a political subdivision of the state of Florida ("County" or "Grantor") and University of Miami ("Grantee"), on behalf of its Rosenstiel School of Marine and Atmospheric Science ("RSMAS") hereby enter into the instant grant agreement ("Agreement") on this \_\_\_ day of \_\_\_\_, 2017 ("Effective Date"), pursuant to the terms, conditions, schedules, and other requirements set forth below.

**WHEREAS**, RSMAS operates a licensed salt water coral nursery in Miami-Dade County and has experience in propagating, maintaining, outplanting, and monitoring certain species of corals, including *Acropora cervicornis*; and

**WHEREAS**, Miami-Dade County seeks to provide grant funding in the amount of \$499,974 to Grantee for RSMAS to propagate, maintain, outplant, and monitor 10,000 *Acropora cervicornis* (staghorn) colonies (of various and distinct genotypes) to numerous designated off-shore sites within Miami-Dade County ("Project"), in compliance with certain licenses and permits either currently held or to be obtained by RSMAS, subject to completion of all Grantee's Requirements set forth herein ; and

**WHEREAS**, Grantee agrees and represents that the initial planting of 10,000 staghorn outplants by RSMAS, as described above, is intended to increase reef structure and function, reef growth, fisheries habitat, coastal buffering, and biodiversity; and

**WHEREAS**, RSMAS represents that it is able to propagate, maintain, outplant, and monitor 10,000 staghorn colonies pursuant to this \$499,974 grant ("Grant") from Miami-Dade County; and

**NOW, THEREFORE**, in consideration of the promises, terms, and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions set forth herein, the County and Grantee agree as follows:

**Article I – Incorporation of Recitals:**

Each of the recital paragraphs set forth above is hereby incorporated into this Agreement.

**Article II – Maximum Grant Amount:**

Notwithstanding and prevailing over any contrary term or implication that may be contained herein, this Grant **shall not exceed \$500,000 under any circumstances.** Grantee cannot seek additional funds for this Project by the execution of a separate agreement with the County or by any other method. No disbursements will be due under this Agreement to Grantee unless and until all pre-conditions and milestone requirements set forth or referenced herein are fully satisfied and, if satisfied, shall be disbursed in accordance with and subject to the Milestone Schedule, attached as

Attachment A to this Agreement. No disbursements are authorized hereunder unless and until this Agreement is first approved by the County Commission and thereafter executed by the County Mayor or his designee.

**Article III – Grantee Responsibilities and Scope of Work:**

Grantee shall perform all of the following tasks and work elements, and all work and services required to perform same, using science-based reef restoration best practices to propagate, grow, and maintain sufficient staghorn corals (*Acropora cervicornis*) at in-water coral nurseries, to provide a source of 10,000 healthy staghorn coral colonies to be used for outplanting, and to harvest, transport, and outplant 10,000 staghorn healthy and disease-free staghorn colonies onto reefs of Miami-Dade County over a period of 3 years, and to monitor same, as required by applicable licenses and permits, including, without limitation, provision of all needed or required labor, supervision, materials, equipment, supplies, transportation, and facilities to perform and complete all of the following Project Tasks:

1. Recruit, hire, train, and supervise Project staff in sufficient numbers to timely accomplish all work and deliverables required herein;
2. Apply for, obtain and maintain all permits and licenses that may be required to perform any services required herein, including, without limitation, the Florida Fish and Wildlife Conservation Commission (FWC) Special Activity License and the National Park Service (NPS) permit (if required).
3. Use and expand existing coral stocks to propagate, supply, install, monitor, and maintain sufficient staghorn coral fragments (> 5 cm in Total Linear Extension, TLE) from at least 20 distinct coral genotypes to be placed in salt-water nurseries, monitored and maintained for propagation and coral outplanting to ensure that at least 10,000 live, healthy, disease-free, and otherwise eligible propagated staghorn colonies of suitable size (>10 cm TLE) and condition are available for outplanting;
4. Provide, install, and maintain coral nursery structures (both existing and additional) as needed to support propagation and maintenance of sufficient staghorn colonies to meet all outplant requirements set forth herein;
5. Provide a source of corals to outplant 10,000 staghorn colonies, including:
  - a. Building and installing additional "coral trees" at RSMAS nurseries to accommodate new staghorn fragments; and
  - b. Cleaning nursery structures monthly to remove fouling organisms such as mollusks, sponges, algae, hydroids, etc.; and
  - c. Perform all other needed maintenance to ensure healthy propagation of staghorns in coral nurseries.
6. Select 5 reef sites within Miami-Dade County for outplanting based on the following criteria, and subject to the County's written approval:
  - a. Current or historical presence of *A. cervicornis*
  - b. Adequate space free from competitors (i.e., gorgonians, sponges, zoanthids, macroalgae)
  - c. No evidence of coral disease at site
  - d. Appropriate depth (15-30 ft) and substrate type (i.e., hard, stable substrate with low occurrence of rubble)
  - e. Authorized by required licenses and permits (as applicable) and approved

7

by designated County Seaport staff

7. Ensure that nursery corals selected for outplanting adhere to coral visual health assessments outlined by FWC SAL standards and protocols (i.e., no visible signs of disease or lesions) to maximize coral survival after outplanting;
8. Establish circular plots (12-15 m in diameter) within each site where 2,000 corals (per site) will be deployed (see attached schematic);
9. Outplant groups of 5 staghorn corals within plots by securing corals with small cable ties to masonry nails hammered into the reef substrate, reaching an average density of 4 corals m<sup>-2</sup> within each plot (see attached schematic);
10. Monitor all outplant sites at 1 month and again between 6-12 months post-outplanting (or as may be more frequently required by permitting or licensing authorities) and at each monitoring interval document attachment success and coral survival as per the monitoring guidelines of the FWC SAL and provide written reports of same to County within at least 15 days after each monitoring interval; at each monitoring interval, re-attach to reef substrate any observed detached outplants or fragments thereof, and perform any further requirements as may be set forth in any required permit or license;
11. Create and submit semi-annual monitoring reports (within at least 60 days after 6-12 month post-outplanting monitoring event) to the County and FWC in compliance with reporting requirements hereunder and under any applicable permits and licenses; For those semi-annual reports in which coral colonies or fragments are not outplanted, such semi-annual monitoring report shall document the health of the coral colonies or fragments in the coral nursery; and
12. Perform all tasks and work required under this Agreement in compliance with all applicable laws, permits, and licenses.

**Article IV – Grantee Quarterly Reporting Obligations:**

Grantee shall provide written quarterly progress reports. Quarterly reports are considered Project status reports and will address the progress made regarding the scope of work. In general, quarterly reports shall include summary information on the quantity and quality of *A. cervicornis* fragments harvested with a description and pictures of representative colonies based on the health status of each group, as well as condition, growth, and the current number of fragments in the nursery population related to this Project. The quarterly report shall include:

- the number of fragments harvested
- general location of each fragment harvested
- number of live corals left in-situ that are encountered
- scientific observation and justification of condition for fragments harvested
- description of resident environment where tissue was harvested
- photographic documentation of the entire process and representative photographs of each harvesting and outplanting activity which shall include no less than 1% of the relocated colonies.

Quarterly reports will also include planned activities for next quarter.



Quarterly reports are due according to the following schedule:

- January 1 – March 31 Reporting Period: due date April 30
- April 1 – June 30 Reporting Period: due date July 31
- July 1 – September 30 Reporting Period: due date October 31
- October 1 – December 31: due date January 31

If the Project start date falls within a defined quarterly monitoring period, the Grantee must report for that period by the given due date. This reporting schedule shall be repeated for the duration of the Grant period.

**Article V – Draw Request Procedures and Conditions; Milestone Schedule:**

Payments under this Agreement will be disbursed according to the Project milestones listed in Attachment A. Such disbursements will be within thirty (30) days of receipt of proper requests, which will include the required quarterly report with exception to the first annual start-up disbursement, which will be made within thirty (30) days of the execution of this Agreement by all parties.

**Article VI – Limitations of Agreement/Drawdown Conditions:**

The maximum amount of the Grant is \$499,974.00, which amount shall be distributed in accordance with the schedule in Attachment A. and subject to the conditions enumerated therein. By making this Agreement, the County assumes no liability or obligation whatsoever should Grantee fail in any of its responsibilities hereunder. In addition, the County assumes no obligation to provide financial support of any type whatsoever in excess of the total (Maximum) Grant Amount hereunder. Cost overruns incurred by the Grantee, the sub-grantee, or others are not the responsibility of the County hereunder or otherwise.

**Article VII - Agreement End Date:**

This initial term of this Agreement shall commence on the Effective Date and end on the third anniversary of the Effective Date ("Agreement End Date"), with one (1) option to renew or extend for a period of up to one (1) year. Any funds not encumbered by the end of Year 3, or for which a Project extension has not been requested, shall revert to the County Seaport Department and the Agreement shall be terminated. A Project extension may be requested in writing to the Director of the County Seaport Department (the "Director") at least thirty (30) business days prior to the end of Year 3. The Director, at his sole discretion, may contract an extension of up to one (1) year. Such extension, if granted, shall in no way commit the County to fund the Project in excess of the maximum Grant amount of \$499,974.00.

**Article VIII – Grantee Annual Reporting Obligations:**

To demonstrate that the Grantee has used the funds for the Project as approved, and has met and fulfilled all requirements as outlined in the Agreement and FWC permitting requirements, the Grantee has an obligation to submit annual reports to FWC. The County must be provided a copy of each annual report on the same date such report is submitted to FWC. The annual report must be submitted to the Director or his designee at the address provided in Article XVII.

**Article IX - Program Monitoring and Evaluation:**

The Director or his designee may monitor and conduct an evaluation of the Grantee's Project operations, which may include visits by County representatives to observe the r

Grantee's programs and procedures in connection with the Project, and the right to examine any directly pertinent books, documents, papers, and records of Grantee involving transactions related to this Agreement until the expiration of three years, or four years should an extension be granted after final payment hereunder. Grantee agrees to grant Director or his designee access to the Project site or any Project-related books, documents, papers, and records during normal business hours and upon reasonable notice.

**Article X - Accounting and Financial Review:**

The Grantee must keep accurate and complete books and records for all receipts and expenditures of this Grant award and any matching funds required in conformance with reasonable general accounting standards. These books and records, as well as all documents pertaining to payments received and made in conjunction with this Agreement, such as vouchers, bills, invoices, receipts and canceled checks, shall be retained in Miami-Dade County in a secure place and in an orderly fashion by the Grantee for at least two (2) years after the later of: the Agreement End Date specified in Article VII; the expiration of an extended Agreement period as approved by the Director; the completion of a County requested or mandated audit or compliance review; the conclusion of a legal action involving this Grant award, the Grantee and/or Project or activities related to the Grant award.

The Director or his designee may examine these books, records and documents at the Grantee's offices or other approved site under the direct control and supervision of the Grantee during regular business hours and upon reasonable notice.

**Article XI - Publicity and Credits:**

The Grantee and sub-recipient must include the following credit line in all promotional and marketing materials related to this Agreement including websites, news and press releases, public service announcements, broadcast media, event programs, and publications: "With the support of the Miami-Dade County Seaport Department, the Miami-Dade County Mayor and Board of County Commissioners." For radio or television broadcast, we require the following voice-over language: "This program is supported in part by the Miami-Dade County Seaport Department." For television broadcast, display of the County logo is required. The Grantee and any sub-recipient must also use the County's logo in marketing and publicity materials, including but not limited to newsletters, press releases, brochures, fliers, websites or any other materials for dissemination to the media or general public.

By accepting County funds, the Grantee and any sub-recipient are required to recognize and acknowledge Miami-Dade County's contract support in a manner commensurate with all contributors and sponsors of its activities at comparable dollar levels.

**Article XII - Liability and Indemnification:**

It is expressly understood and intended that the neither the Grantee, nor any employee, agent, nor subcontractor (of any tier), nor sub-recipient, as the recipient of these Grant funds, shall be deemed an officer, employee or agent of the County, its Board of County Commissioners, its Mayor, or the Miami Dade County Seaport. Further, for purposes of the Agreement and the Project, the parties hereto agree that the Grantee or sub-recipient, its officers, agents and employees are independent contractor.

The Grantee or sub-recipients shall take all actions as may be necessary to ensure that its

officers, agents, employees, assignees and/or subcontractors shall not act as nor give the appearance of that of an agent, servant, joint venturer, collaborator or partner of the Miami Dade County Seaport Department, the Miami-Dade County Mayor, the Miami-Dade County Board of County Commissioners, or its employees.

The Grantee agrees to be responsible for all work performed and all expenses incurred in connection with the Project. The Grantee may subcontract as necessary to perform the services set forth in the Agreement, including entering into subcontracts with vendors for services and commodities, provided that it is understood by the Grantee that the County shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract, and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

The Grantee shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities for and from any and all liability, losses, claims, actions, suits, and damages, including attorneys' fees and costs of defense at all levels including appellate, which the County or its officers, employees, agents or instrumentalities may incur or be subject to as a result of claims, demands, law suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Agreement by the Grantee or its employees, agents, servants, partners, principals or subcontractors (of any tier). The Grantee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The Grantee expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the County or its officers, employees, agents and instrumentalities as herein provided.

**Article XIII - Assignment:**

The Grantee is not permitted to assign this Agreement or any portion thereof. Any purported assignment will render this Agreement null and void and the Grantee shall be subject to immediate rescission of the full amount of the Grant award and reimbursement by the Grantee of its full value to the County.

**Article XIV - Compliance with Laws:**

It shall be a contractual obligation of the Grantee hereunder, that during the term of the Agreement, the Grantee agrees to abide by and be governed by all applicable federal, state and county laws and the terms of contracts made to the County and the Seaport Department, of which this Agreement is a sub-contract, including, but not limited to the following Miami-Dade County Ordinances, Resolutions, sections of the County Code and federal laws:

- a. County Ordinance No. 72-82 - Miami-Dade County's Conflict of Interest and Code of Ethics Ordinance - as amended, which is incorporated herein by reference as if fully set forth herein;
- b. Section 2-8.1- of the Miami-Dade County Code - Ownership Disclosure;
- c. County Ordinance No. 90-133- Amending Sec. 2-8.1; (d)(2) - Employment Disclosure;
- d. Section 2-8.6 -of the County Code - Criminal Record;
- e. County Ordinance No. 92-15 codified as Section 2-8.1.2 of the County

- Code - Employment Drug-free Workplace;
- f. County Ordinance No. 142-91 codified as Section 11A -29 et. seq. of the County Code – Family Leave;
  - g. County Resolution R-385-95 - Miami-Dade County Disability Nondiscrimination Affidavit, incorporating the following Federal laws and Acts:
    - h. The Americans with Disabilities Act of 1990 (ADA), Pub.L. 101-336, 104 Stat. 327, 42 U.S.C.
    - i. 12101-12213 and 47 U.S.C. Sections 225 and 611 including Title I, Employment;
      - i. Title II, Public Services;
      - ii. Title III, Public Accommodation and Services Operated by Private Entities; and Section 504 of the Rehabilitation Act of 1973;
      - iii. Title IV, Telecommunications;
      - iv. Title V, Miscellaneous Provisions: The Rehabilitation Act of 1973, 29 U.S.C. Section 794; The Federal Transit Act, as amended 49 U.S.C. Section 1612; The Fair House Act as amended, 42
  - j. U.S.C. Section 3601 - The foregoing requirements of this section shall not pertain to contracts with the United States or any department or agency thereof, or the State or any political subdivision or agency thereof or any municipality of this State;
  - k. Section 2-8.1 (c) of the County Code regarding Delinquent and Currently Due Fees or Taxes

By accepting and executing this Agreement, Grantee is affirmatively certifying its compliance with these laws, ordinances and resolutions.

Further, all funded activities must provide equal access and equal opportunity in employment and services, and may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation or physical ability, in accordance with Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 as amended (42 U.S.C. 2000d et seq.), the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and Miami-Dade County ordinances No. 97-170, § 1, 2-25-97 and No. 98-17, § 1, 12-1-98.

#### **Article XV - Remedies:**

In the event the Grantee shall fail to materially conform with any of the provisions of the Agreement or its attachments referenced herein, the Director may withhold or cancel all, or any, unpaid installments of the Grant upon giving five (5) calendar days written notice to the Grantee, and the County shall have no further obligation to the Grantee under this Agreement. Further, in the event of a material breach of any term or condition of the Agreement, upon five (5) calendar days written demand by the Director, the Grantee shall repay to Miami-Dade County all portions of the Grant which have been received by the Grantee, but which have not actually been used or disbursed by the Grantee as of the date that the written demand is received. Any funds which have been disbursed as of the date of the notice shall be paid back to the County within 60 calendar days of the notice.

Grant funds which are to be repaid to the County pursuant to this Section or other Sections in this Agreement, shall be delivered to the Director in the form of a certified check for the total amount due and payable to Miami-Dade County.

These provisions do not waive or preclude the County from pursuing any other remedy, which may be available to it under the law, this Agreement, at equity, or otherwise.

**Article XVI - Indulgence Will Not Be A Waiver of Breach:**

The indulgence of either party with regard to any breach or failure to perform any provision of the Agreement shall not be deemed to constitute a waiver of the provision or any portion of the Agreement either at the time the breach or failure occurs or at any time throughout the term of the Agreement.

**Article XVII - Written Notices:**

Any written notices required under the Agreement will become effective when delivered in person or upon the receipt of a certified letter addressed to Grantee: 1320 S. Dixie Highway, Suite 600, Coral Gables, FL 33146 Attn: Executive Director, Office of Research Administration; and to the Director at Miami-Dade County Seaport Department, 1015 North America Way, Suite 200, Miami, Florida 331328.

**Article XVIII - Contract Represents Total Agreement:**

The Agreement, including its special conditions and attachments, represents the whole and total agreement of the parties. No representations, except those contained within the Agreement and its attachments, are to be considered in construing its terms. Other than as specified in this Agreement as delegated to the Director, no other modifications or amendments may be made to the Agreement unless made in writing, signed by both parties, and approved by appropriate action by the Miami-Dade County Board of County Commissioners and Mayor.

**Article XIX - Insurance:**

The Grantee must maintain and shall furnish prior to the execution of this Agreement and upon request of the Director or his designee, certificates of insurance indicating that insurance has been obtained which meets the requirements as outlined below:

1. Workers Compensation Insurance for all employees of the Grantee or sub-performing the work as required by Florida Statute 440.
2. Commercial General Liability Insurance in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.
3. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the project; in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

The insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

1. The Company must be rated no less than "B" as to the management, and no less than "Class V" as to financial strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division; or,
2. The Company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business

in Florida," issued by the State of Florida Department of Insurance, and is a member of the Florida Guaranty Fund.

Certificates must indicate that no modification or change in insurance shall be made without thirty (30) days advance written notice to the certificate holder.

Modification or waiver of any of the aforementioned insurance requirements is subject to the approval of the County's Risk Management Division. The Grantee shall notify the County of any intended changes in insurance coverage, including any renewals of existing policies.

**Article XX – Use of Headings:**

Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement.

**Article XXI – Legal Representation and Governing Law:**

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement. The terms of this Agreement shall be governed by, and construed in accordance with Florida law. The parties hereby agree to submit to the exclusive jurisdiction of the Eleventh Judicial Circuit in and for Miami-Dade County in order to settle any dispute which may arise out of, under, or in connection with this Agreement.

**Article XXII – Termination:**

If, for any reason, the Grantee shall fail to fulfill in a timely and proper manner its obligations under the Agreement, or should violate any of the covenants, agreements, or stipulations of the Agreement, the County shall thereupon have the right to terminate the Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. Grantee shall not be given disbursements for services not completed and shall reimburse the total value of any unspent funds already disbursed by the date indicated in the notice of termination. Miami-Dade County assumes no liability or obligation whatsoever should the Agreement be terminated for the reasons stated above.

**Article XXIII – Third Party Beneficiaries:**

There are no third-party beneficiaries to this Agreement. No other individual or entity has any right or obligation hereunder.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) below.

**MIAMI -DADE COUNTY  
SEAPORT DEPARTMENT**

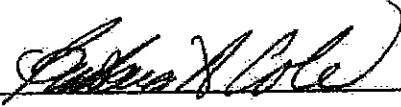
**UNIVERISTY OF MIAMI,**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: 

Name: Barbara A. Cole

Title: Associate Vice President for Research Administration

Date: 1.24.18

As approved by the Board on:

\_\_\_\_\_

Attest:

\_\_\_\_\_

Legal Review:

\_\_\_\_\_

County Attorney

Attachment A  
MDC/RSMAS Grant Agreement  
Milestone Payment Schedule

Year 1:	3,500 Outplants	\$181,548.00
Year 2:	3,500 Outplants	\$185,815.00
Year 3:	3,000 Outplants	\$132,611.00

Project Milestone	Year 1		Year 2		Year 3	
	Milestone % Payment	Amount Dispersed	Milestone % Payment	Amount Dispersed	Milestone % Payment	Amount Dispersed
Yearly Start-Up; including that Adequate Number of Staghorn fragments are fully deployed to nursery to meet annual outplant goals	15	\$27,232.20	15	\$27,872.25	15	\$19,891.65
Completed maintenance of adequate number of staghorn fragments to meet annual outplant goals	25	\$45,387.00	25	\$46,453.75	25	\$33,152.75
All staghorns in yearly milestones are harvested from the nursery and successfully outplanted to designated sites; submittal of one-month post outplant report	50	\$90,774.00	50	\$92,907.50	50	\$66,305.50
Submittal of 6-12 month post-outplant report	10	\$18,154.80	10	\$18,581.50	10	\$13,261.10

16