

Memorandum



Date: May 3, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

Agenda Item No. 8(J)(2)

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Resolution No. R-418-22

Subject: Resolution Approving and Authorizing the Mayor or Mayor’s designee to execute a Five-year Reimbursable Agreement between Miami-Dade County and the National Oceanic and Atmospheric Administration and National Ocean Service Center for Operational Oceanographic Products and Services for the Management, Operation, Maintenance and Repair of the Miami Physical Oceanographic Real-Time System (Ports®)

EXECUTIVE SUMMARY

The purpose of this item is to gain authorization by the Board of County Commissioners (Board) for the County to enter into a five year Reimbursable Agreement with the National Oceanic and Atmospheric Administration National Ocean Service through its Center for Operational Oceanographic Products and Services (NOAA) for the Management, Operation, Maintenance and Repair of the Miami Physical Oceanographic Real-Time System (Ports®) to allow CO-OPS to continue managing, operating, maintaining, enhancing, and repairing the Miami Physical Oceanographic Real Time System (Miami PORTS®). PORTS® is a National Ocean Service (NOS) program that supports safe and cost-efficient navigation by providing shipmasters, pilots, and other users with accurate real-time oceanographic data and ocean current direction and speed information required for navigation safety, improving hazardous spill response, and improving weather and storm surge forecasts. If approved, the agreement would require the County to reimburse NOAA for the costs of providing management, operating, and maintenance services in support of the MIAMI PORTS® system in an amount up to \$482,505 over the agreement’s five-year term. A similar reimbursement agreement between the County and NOAA was ratified by the Board on November 21, 2017, via R-1132-17, which agreement was later amended via Amendment 001 thereto, which amendment was authorized by the Board on July 21, 2020, via R-731-20.

RECOMMENDATION

It is recommended that the Board approve the accompanying resolution approving and authorizing the execution of a Five-year Reimbursable Agreement between Miami Dade County and NOAA (Agreement) for the enhancement, management, operation, maintenance, and repair of the Miami PORTS® system, including operating and maintaining three (3) real-time ocean current monitoring stations (Buoy # 1, Buoy # 3 & Buoy M).

SCOPE

The impact of this item is countywide in nature, as PortMiami is a regional asset and generates employment for residents throughout Miami-Dade County.

BACKGROUND

Currently, PortMiami’s main shipping channel has an authorized depth of -50/-52 feet at mean low water, making our harbor the deepest in the region, and the only port south of Virginia able to accommodate the new, larger Post-Panamax vessels. Piloting the larger Post-Panamax vessels into the Miami navigation channel presents unique challenges as vessels have to slow down while maintaining sufficient speeds to safely break through the cross currents of the Gulf Stream. Having real time ocean current information via MIAMI PORTS® better enables pilots to gauge and respond to often varying ocean current conditions, which helps facilitate faster, more efficient, and safer entry into Miami’s channel.

The County’s current service and reimbursement agreement with NOAA will expire on April 30, 2022. As the operating and maintenance services provided under the soon-to-expire agreement are still required, a new five-year Agreement with NOAA is being recommended. The new Agreement will cover the anticipated operating and maintenance costs of the buoy mounted current measurement stations at the existing three (3) locations for a period of five years, from May 1, 2022, through April 30, 2027, at a total estimated cost of \$482,505, which amount already includes a \$65,000 credit for unused funds remaining in the expiring contract with NOAA.

FISCAL IMPACT/FUNDING SOURCE

The Agreement has a total anticipated cost of \$482,505 over the Agreement’s five-year term. The funds will be provided from the operating revenue of the Miami-Dade Seaport Department.

TRACK RECORD/MONITOR

The PortMiami staff members responsible for monitoring the Agreement are Dalgis Betancourt, Assistant Port Director, Operations and Franklin Roig, Chief Operating Officer.

DELEGATED AUTHORITY

Pursuant to Section 2-8.3 of the County Code, there are no delegations of authority beyond those specified in the attached resolution.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 3, 2022

FROM: 
Gen Bonzon-Keenan
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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(J)(2)
5-3-22

RESOLUTION NO. _____ R-418-22

RESOLUTION APPROVING A REIMBURSABLE AGREEMENT BETWEEN THE COUNTY AND THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) FOR THE ENHANCEMENT, MANAGEMENT, OPERATION, MAINTENANCE, AND REPAIR OF THE MIAMI PHYSICAL OCEANOGRAPHIC REAL-TIME SYSTEM WITH A FISCAL IMPACT OF \$482,505.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUCH AGREEMENT AND TO EXERCISE ANY RIGHTS SET FORTH THEREIN

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Reimbursable Agreement (the "Agreement"), in substantially the form attached hereto, between the County and the National Oceanic and Atmospheric Administration ("NOAA") for the enhancement, management, operation, maintenance, and repair of the Miami Physical Oceanographic Real-Time System, with a fiscal impact of \$482,505.00 over the five year term of the Agreement. This Board further authorizes the County Mayor or County Mayor' designee to execute the Agreement and to exercise all cancellation, renewal, and other rights set forth therein.

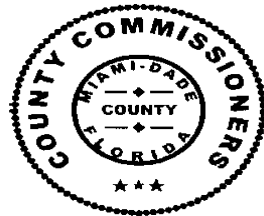
The foregoing resolution was offered by Commissioner **Rebeca Sosa** , who moved its adoption. The motion was seconded by Commissioner **Raquel A. Regalado** and upon being put to a vote, the vote was as follows:

	Jose "Pepe" Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 3rd day of May, 2022. 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



Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SRB

Steven B. Bass

A REIMBURSABLE AGREEMENT

Between The

**U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE
CENTER FOR OPERATIONAL OCEANOGRAPHIC PRODUCTS
AND SERVICES**

And The

**MIAMI-DADE COUNTY THROUGH ITS SEAPORT DEPARTMENT
("PORTMIAMI")**

For The

**MANAGEMENT, OPERATION, MAINTENANCE, AND REPAIR OF
NOAA'S
Miami PHYSICAL
OCEANOGRAPHIC REAL-TIME SYSTEM (PORTS®)**

NOS Agreement Code: MOA-2022-XXX(#XXXX)

I. PARTIES AND PURPOSE

- A. This Agreement is between the National Oceanic and Atmospheric Administration (NOAA) National Ocean Service (NOS) through the Center for Operational Oceanographic Products and Services (CO-OPS) and Miami-Dade County (“County”) through its Seaport Department (“PortMiami”). NOS and PortMiami have a common interest in the safe navigation and environmental management of the Port of Miami and in the collection and dissemination of related oceanographic data in near-real time. NOAA’s Miami Physical Oceanographic Real-Time System (Miami PORTS®) was established at the request of PortMiami.
- B. The purpose of this Agreement is to continue the funding stream established in MOA-2017-009 to allow CO-OPS to manage, operate, maintain, enhance and repair the Miami Physical Oceanographic Real Time System (Miami PORTS®). PORTS® is a NOS program that supports safe and cost-efficient navigation by providing shipmasters, pilots, and other users with accurate real-time information required for safe vessel loading and transit, and to avoid groundings and collisions.

II. BACKGROUND

- A. PortMiami partnered with the CO-OPS in 2017 to establish the Miami PORTS®. This system consists of three buoy mounted current meters deployed near and within the entrance of the navigation channel into the Port, supported by two previously purchased spare monitoring systems. All ship traffic that serves PortMiami utilizes this shipping channel. They consider an ocean current information system that provides real-time data as absolutely necessary for both navigation safety and the continued business development and job creation at the port facility.
- B. Currently, PortMiami’s main shipping channel is authorized to -52 feet at mean low water, making the harbor the deepest in the region and the ONLY port south of Virginia able to accommodate the new, larger Post-Panamax vessels. The Port has 6,100 feet of continuous berth along the deepened channel and is 2.5 nautical miles from open ocean to berth (30 min). PortMiami is the closest U.S. port to the Panama Canal and is benefitting from increased Asian cargo as trade patterns shift from the west coast to the East Coast ports. As a result, the largest container ship to ever call at a Florida port arrived at PortMiami on April 6, 2021. The CMA CGM Argentina, a 15,000 TEU (twenty-foot equivalent unit) vessel’s arrival symbolized the Port’s overall growth including the efficacy of previously completed expansion projects, such as channel widening, deepening and other navigational and infrastructure improvements that allow these types of larger cargo ships to now call the Port. Bringing this size vessel into the navigation channel entrance with cross currents will be extremely difficult, so having real-time current information from a Miami PORTS® system is crucial providing a more precise calculation of inbound vessel speed for the safe transiting of these larger vessels calling PortMiami

III. AUTHORITIES

- A. The funding transfer authority for NOS and the PortMiami to enter into this Agreement is the Coast and Geodetic Survey Act (CGSA), 33 U.S.C. § 883e, which provides that the Secretary of Commerce is authorized to enter into cooperative agreements or any other agreement, with, and to receive and expend funds made available by any state, or subdivision thereof, any federal agency, or any public or private organization, or individual for surveys and investigations authorized under §§ 883a et seq.
- B. Additionally, PortMiami is entering into this Agreement pursuant to Sections 2-9 and 2-10 of the Code of Miami-Dade County and pursuant to further approval and authority provided in Board of County Commissioners resolution R-____, approved on _____, 2022.
- C. The programmatic authority for NOS to enter into this Agreement is the CGSA, 33 U.S.C. §§ 883a *et seq.*, which authorizes the Secretary of Commerce to conduct hydrographic and topographic surveys, tide and current observations, and analysis and prediction of tide and current data.

IV. THE MIAMI PORTS®

The Miami PORTS® consists of the following major components:

- A. Buoy mounted current measurement stations at three (3) locations: (1) Buoy M, (2) Buoy 1, and (3) Buoy 3. Each location includes an Acoustic Doppler Current Profiler (ADCP) mounted on U.S. Coast Guard Aid to Navigation (ATON) buoy, data collection platform; a rechargeable battery; a solar panel or AC charger; and a telemetry system (iridium modem).
- B. Existing NOS National Water Level Observation Network (NWLON) stations included in the Miami PORTS® at one (1) location: Virginia Key, Florida. The stations include an air acoustic water level sensor with protective well, a microwave water level sensor, back up pressure-based water level sensor, data collection platform with Geostationary Operational Environmental Satellite (GOES) transmitter, rechargeable battery, solar panel, and a telemetry system (radio/modem/antenna for telephone modem). In addition, the station includes a meteorological package consisting of an anemometer, air/water temperature sensors, and barometric pressure sensor and a long-term global navigation satellite system.
- C. A centralized Voice Data Response System (VDRS) located at CO-OPS Headquarters, Silver Spring, Maryland, with access provided via a toll-free number.
- D. Spare equipment, including, without limitation, two previously purchased spare monitoring systems, and other measurement system components.

- E. Additional data collection sites or sensors may be added or deleted from the Miami PORTS[®] in the future and will be addressed through a mutually agreed upon amendment to this Agreement.

V. RESPONSIBILITIES OF THE PARTIES

PORTS[®] is a partnership program based on extensive collaboration between CO-OPS and the local user community to identify local needs. The PORTS[®] partnership is founded on the principle that there are both local and national responsibilities. Provision of the Miami PORTS[®], including each of the major components listed or described in Section IV above, will be the responsibility of CO-OPS. Funding for the ongoing operations and maintenance will be the responsibility of the PortMiami.

- A. NOS agrees to provide, using appropriated funds:
 - 1. Personnel and technical expertise required to assure that the system design, installation, operation, and maintenance of the Miami PORTS[®] are in accordance with NOS guidelines and standards.
 - 2. A centralized Voice Data Response System (VDRS) located at CO-OPS Headquarters, Silver Spring, Maryland, with access provided via a toll-free number.
 - 3. Data dissemination in both text and graphical formats for the Miami PORTS[®]. Data on this website will be updated every six minutes. See website: <https://tidesandcurrents.noaa.gov/ports/index.html?port=mi>
 - 4. Real-time quality control of all Miami PORTS[®] data in the form of a 24 hours per day/7 days per week Continuous Operational Real-time Monitoring System (CORMS) operation. This activity will be staffed by personnel contracted by CO-OPS to ensure that the data disseminated meets NOAA's standards for safe navigation.
 - 5. Communications costs associated with CORMS.
 - 6. Scheduled (routine) and unscheduled (emergency) maintenance of the NOS NWLON instruments included as part of the Miami PORTS[®], including calibration of sensors.
 - 7. Necessary modules/components for unscheduled (emergency) repairs to the NOS NWLON instruments included as part of the Miami PORTS[®].
 - 8. Software maintenance and enhancements (which may be developed by CO-OPS).
 - 9. Updates or refinements to the Mean Lower Low Water (MLLW) or other datum values as may be developed by CO-OPS.

10. Recommendations for hardware and equipment upgrades.
11. A designated NOS site representative identified in paragraph VII.B of this agreement. The site representative is the NOS contact listed in Section VII. NOS shall notify PortMiami if a site representative is designated.
12. Proposals for and final approval of all changes, additions, modifications to the Miami PORTS®.

B. NOS shall provide the following items using PortMiami funds provided in accordance with Section VI hereof:

1. Personnel and expertise required to install, operate, maintain, and repair the Miami PORTS® current measurement stations. This effort will utilize contractor support when appropriate.
2. Equipment, modules, components, supplies for the replacement of damaged or faulty equipment required for unscheduled (emergency) repairs. This does not include major infrastructure repairs that would exceed the PortMiami per Period (or total) funding amounts or limits set forth in Section VI hereof (less any carried over unspent funds from MOA-2017-009) or station relocation, both of which require an amendment to the agreement.
3. Scheduled (routine) and unscheduled (emergency) maintenance of the current measurement stations in accordance with NOS standards, including calibration of sensors.
4. Recurring data telemetry and communications as applicable.
5. Removal of oceanographic sensors and related equipment, if the agreement is terminated.

C. PortMiami shall:

1. Provide the funding described in Section VI hereof for the management, operation, maintenance, recapitalization and repair of the Miami PORTS®.
2. Provide recapitalization funds, in accordance with and not to exceed the funding amounts or limits set forth in Section VI hereof (less any unused funds carried over from the previous agreement (MOA-2017-009), for the purchase of equipment, modules, components, and supplies for the replacement of damaged or faulty equipment other than and excluding major infrastructure repairs or station relocation, which require an amendment to the agreement.
3. Designate a local site representative. The site representative is the PortMiami contact listed in Section VII. The PortMiami shall notify NOS if a new Miami PORTS® site representative is designated.

4. Not access, maintain, repair, modify, or upgrade any component of Miami PORTS®. Nothing contained in this Agreement gives or vests in PortMiami the authorization to maintain, repair, modify, or upgrade any component of Miami PORTS® without written consent of all Parties.

VI. FUNDING, PAYMENT, AND REIMBURSEMENT ARRANGEMENTS

- A. Funding for this five-period agreement is as follows:

Following the signing of this agreement by both parties, NOS will invoice PortMiami in the amount of \$88,083 for Period 1. Period 1 will begin May 1, 2022 and end April 30, 2023. Each subsequent period will follow the same schedule. The Period 1 funds are to be provided to NOS within 30 days of receipt of invoice. NOS will invoice the PortMiami for the next subsequent four periods as noted in Appendix A, for a total of \$482,505 over the 5 periods of the agreement. Funds for Periods 2-5, NOS will invoice the PortMiami 30 days in advance of the due date, for the amount shown in Appendix A for that Period and will receive payment within 30 days of that invoice subject to the provisions of Section VI of this agreement. There will be no required amendments to this Agreement unless there is a change in service, costs or products.

- B. Any unused funds that remain from the previous agreement (MOA-2017-009) shall be carried over into this agreement for the financial continuity of operations.
- C. Unused funds from the previous agreement (MOA-2017-009) funds will be carried to this agreement.
- D. Unused funds from the previous agreement (MOA-2017-009) in the amount of \$65,000 (divided equally between the 5 periods of this agreement) will be used to partially fund each period of performance under this agreement.
- E. NOS will send invoice(s) to the following point of contact:

PortMiami POC:	Dalgis Betancourt
Position:	Assistant Port Director, Port Operations
Address:	PortMiami 1015 North America Way Miami, FL 33132-2081
Office Number:	(305) 347-4841
Cellphone Number:	(305) 799-7942
E-mail:	dalgis.betancourt@miamidade.gov

- F. The total cost to PortMiami over this five-period agreement is \$482,505 (see Appendix A) for stations funded under this agreement. The following financial information applies:

1. NOAA/NOS/CO-OPS
DUNS¹ Number: 15-6140209
Employer ID: 52-0821608
Treasury Account Symbol (appropriation code for collection): 13x1450
CBS ACCS number: 14-2022-1BK6XMA-P00 10-16-0000-00-00-00
 2. PortMiami
DUNS Number: 80-481-5533
Employer ID: 596000576
- G. NOAA/NOS/CO-OPS will not achieve full cost recovery for the services it is providing. NOAA's contribution to the Miami PORTS[®] partnership includes maintaining its Continuous Operational Real-time Monitoring System (CORMS) for data quality control, related PORTS[®] data dissemination infrastructure, and other technical and administrative oversight in the amount appropriated for PORTS[®] in the current fiscal year. Based upon several published studies of the economic benefits of PORTS[®], there is an estimated annual benefit for each PORTS[®] of \$2.2M - \$4.5M. In accordance with 33 U.S.C. § 883e (2), NOAA has determined that the amount of benefits it derives from this Agreement exceeds its contribution². Additionally, improvements in spill response, weather forecasts, and storm surge forecasts enabled by the PORTS[®] data are in keeping with NOAA's mission to protect life and property.
- H. This Agreement is subject to the availability of funds. NOS participation in this Agreement is contingent on receipt of the Federal funding required to operate the CORMS. Should NOS be required to cancel this Agreement, any funds transferred to NOS will be returned to PortMiami to the extent that CO-OPS has not incurred obligations.
- I. Any unused funds which remain at the conclusion of any period of performance shall be carried over into the following funding period with an accounting provided to PortMiami within 90 days of the end of any such period. Any unused funds that remain at the conclusion of this agreement shall be carried over into subsequent agreements or returned to PortMiami if no subsequent agreements are executed.
- J. Equipment used in this project shall remain NOS property. NOS will leave the Miami PORTS[®] equipment in place, as long as it remains operational.
- K. If the PortMiami fails to provide necessary funds, NOS will monitor data quality and terminate dissemination of information when, in its sole discretion, the information quality approaches unacceptable limits.

¹ Dun & Bradstreet Universal Numbering System

² NOAA's estimated annual contribution to Miami PORTS[®] is \$80,000.

VII. CONTACTS

A. The Points of Contact (POC) for each of the parties to this agreement are:

1. NOS POC: Christopher DiVeglio
 Position: Maritime Services Program Manager
 Address: NOAA/NOS/CO-OPS
 1305 East West Highway
 Silver Spring, Maryland 20910
 Telephone Number: (240) 533-0571
 Cell: (240) 620-6919
 E-mail: christopher.diveglio@noaa.gov
2. PortMiami POC: Dalgis Betancourt
 Position: Assistant Port Director,
 Port Operations
 Address: PortMiami
 1015 North America Way
 Miami, FL 33132-2081
 Office Number: (305) 347-4841
 Cellphone Number: (305) 799-7942
 E-mail: dalgis.betancourt@miamidade.gov

B. The day-to-day operations and technical assistance points of contact for this agreement are:

1. Name of Site Rep: Albert Sanford, Site Representative
 Address: NOAA/NOS/CO-OPS/FOD
 672 Independence Parkway
 Chesapeake, VA 23220
 Telephone Number: (757) 842-4441
 Email: Albert.Sanford@noaa.gov
2. PortMiami POC: Dalgis Betancourt, Site Representative
 Address: 1015 N. America Way
 Miami, Florida 33132
 Telephone Number: 305-347-4841
 Email: dalgis.betancourt@miamidade.gov

C. The Financial Points of Contact (POC) for this agreement are:

1. NOS POC: Kelvin James
 Position: Budget Officer

Address: NOAA/NOS/CO-OPS
1305 East West Highway
Silver Spring, Maryland 20910
Telephone Number: (301) 520-4769
E-mail: kelvin.james@noaa.gov

2. PortMiami POC: Andy Hecker
Position: Managing Director, C.F.O., PortMiami
Address: 1015 N. America Way, Miami, FL 33132
Telephone Number: 305-347-4808
E-mail: andy.hecker@miamidade.gov

- D. The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change. This change does not require a formal amendment.

VIII. DURATION OF AGREEMENT, AMENDMENTS, OR TERMINATION

- A. Period 1 of this agreement will begin on May 01, 2022 and end on April 30, 2023. The duration of each subsequent period of this agreement shall be for one year, beginning on May 01 and ending on April 30. Thus, the second period will begin on May 01, 2023 and end on April 30, 2024. Periods three, four and five shall follow the same schedule. The Agreement shall end on April 30, 2027. Any negotiated changes in schedule for Periods 2-5 from those listed in Appendix A will be addressed in a mutually agreeable amendment to this agreement.
- B. This Agreement may be amended within the scope of this agreement or extended at any time through the written mutual consent of the parties. The parties will review this agreement at least once during the execution of this agreement to determine whether it should be revised or terminated.
- C. This agreement may be terminated by (1) mutual written consent; (2) 90 days advance notice by either party; or (3) completion of the operation/terms of this agreement.
- D. The transfer of funds from PortMiami to NOS will not require an amendment. However, if the amount to be transferred is greater or less than the amount cited in Section VI (B) above, then an amendment will be required.
- E. In addition to any other right of PortMiami to terminate this Agreement, PortMiami shall have the right, at its sole discretion and upon its determination that it has inadequate funds available for the purposes of this Agreement, to cancel this Agreement without loss or cost to the PortMiami except as specifically provided for in this subsection VIII E. Termination under this subsection VIII E shall become effective upon written notice by the PortMiami to CO-OPS. In case of termination by the PortMiami pursuant to this paragraph, CO-OPS may only be reimbursed for costs incurred prior to the date of the written notice of termination by the PortMiami, so long as any such cost is otherwise authorized and appropriate. In case of termination pursuant to this subsection, NOS may

be reimbursed only for costs incurred prior to the written notice given by the PortMiami. NOS may also use remaining reserve funds, if any and only up to a max of \$50,000, for the removal of equipment following termination.

- F. NOS reserves the right to resume maintenance and operation of the Miami PORTS® at any time if, in its sole discretion, it believes that such an action would be in the public's best interest.

IX. RESOLUTION OF DISAGREEMENTS

Should disagreement arise as to the interpretation of the provisions of this Agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement will be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation is not reached within 30 days, the Parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

X. OTHER TERMS AND CONDITIONS

- A. This Agreement in no way limits other government agencies (federal, state, and local), port authorities, companies involved in maritime commerce, commercial fishermen, recreational boaters and fishermen, researchers, and the general public from having access to Miami PORTS® data through (1) telephone voice messaging and (2) the Internet.
- B. NOAA agrees to promptly consider and adjudicate any and all claims which may arise out of work under this Agreement by CO-OPS or duly authorized representatives or contractors of CO-OPS and to pay for any damage or injury as may be required by Federal law. Such adjudication will be pursued under the Federal Torts Claim Act, 28 U.S.C. 2671 *et seq.* or other such legal authority as may be pertinent. NOAA also agrees to consider and adjudicate any claims for damage or injury sustained by NOAA personnel in the performance of their official duties while doing the work under this Agreement. Such adjudication will be made pursuant to the Federal Compensation Act, 5 U.S.C. 8181 *et seq.*, or other such legal authority as may be pertinent.
- C. In executing the terms and conditions of this agreement, NOS shall comply with all applicable federal, state, and local environmental laws, statutes, regulations, executive orders, and permits.
- D. NOAA shall cause its contractors to maintain during the performance of any work under the terms of this Agreement, and for one year after such work is completed or accepted, insurances with limits of liability not less than those stated in the Federal Acquisition Regulation (FAR) 28.307-2. See Appendix B.

XI. ACCEPTED AND APPROVED

ACCEPTED AND APPROVED FOR THE
U.S. DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE

ACCEPTED AND APPROVED FOR
MIAMI-DADE COUNTY

By: _____

Richard Edwing
Director, Center for Operational
Oceanographic Products and Services

Date: _____

By: _____

Name:

Title: _____

Date: _____

Appendix A

Miami PORTS®

Management, Operation, Maintenance, and Supply Cost Schedule

Measurement System	Annual Costs				
	Period 1 05/01/2022 - 04/30/2023	Period 2 05/01/2023 - 04/30/2024	Period 3 05/01/2024 - 04/30/2025	Period 4 05/01/2025 - 04/30/2026	Period 5 05/01/2026 - 04/30/2027
Buoy #1 (CM Buoy)	\$29,361	\$30,709	\$32,111	\$33,569	\$35,085
Buoy #3 (CM Buoy)	\$29,361	\$30,709	\$32,111	\$33,569	\$35,085
Buoy M (CM Buoy)	\$29,631	\$30,709	\$32,111	\$33,569	\$35,085
Virginia Key Water Level Station (*NWLON MET)	\$0	\$0	\$0	\$0	\$0
Total for each Period#	\$88,083	\$92,127	\$96,333	\$100,707	\$105,255
Total PortMiami responsibility for this agreement - \$482,505					

CM BUOY – Buoy mounted current meter station

NWLON MET – NWLON water level station with meteorological

*NWLON – National Water Level Observation Network (NOAA funded maintenance)

Unused funds from the previous agreement (MOA-2017-009) in the amount of \$65,000 (divided equally between the 5 periods of this agreement) will be used to partially fund each period of performance under this agreement. An amount of \$13,000 has been applied to each period of performance.

Appendix B

Federal Acquisition Regulations

28.307-2 Liability.

- a) ***Workers' compensation and employer's liability.*** Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers. (See 48CFR28.305(c) for treatment of contracts subject to the Defense Base Act.)
- b) ***General liability.***
1. The contracting officer shall require bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.
 2. Property damage liability insurance shall be required only in special circumstances as determined by the agency.
- c) ***Automobile liability.*** The contracting officer shall require automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.
- d) ***Aircraft public and passenger liability.*** When aircraft are used in connection with performing the contract, the contracting officer shall require aircraft public and passenger liability insurance. Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.
- e) ***Vessel liability.*** When contract performance involves use of vessels, the contracting officer shall require, as determined by the agency, vessel collision liability and protection and indemnity liability insurance.