

MEMORANDUM

Agenda Item No. 14(A)(1)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 17, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution authorizing the County Mayor to develop, negotiate, accept and execute agreements and other related documents with third parties for artificial reef placement in favor of Miami-Dade County under the authority of permits held by Miami-Dade County; authorizing the County Mayor to develop, negotiate, accept and execute an Artificial Reef Agreement and other related documents with the City of Miami Beach for artificial reef placement under the authority of permits held by Miami-Dade County

Resolution No. R-936-23

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.



Geri Bonzon-Keenan
County Attorney

GBK/gh

Memorandum



Date: October 17, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Resolution Authorizing the County Mayor or County Mayor's Designee to Develop, Negotiate, Accept, and Execute Agreements for the Placement of Artificial Reefs in Favor of Miami-Dade County

EXECUTIVE SUMMARY

Artificial reefs enhance marine habitats, protect existing natural resources, and increase recreational fishing and diving opportunities for both residents and tourists and enhance and benefit the marine system by providing additional habitat in barren sandy areas for the settlement and growth of benthic organisms and foraging opportunities and shelter for fish assemblages. Since 1981, the County has been deploying artificial reefs within Biscayne Bay and offshore in the Atlantic Ocean in furtherance of the policies of the County's Comprehensive Development Master Plan and in accordance with federal, state, and local regulatory requirements.

This resolution is seeking authorization from the Miami-Dade County Board of County Commissioners (Board) for the County Mayor or County Mayor's Designee to develop, negotiate, accept, and execute agreements with third parties for the placement of artificial reefs which will allow the County to receive additional appropriate artificial reef material in furtherance of enhancing our marine habitats and increasing the productivity of our fisheries. Under the proposed Artificial Reef Agreements, placement of artificial reef material will be undertaken by third parties, and the County would not be paying or otherwise compensating such third parties for such work. The placement and the material used for the reef structures must be reviewed and approved by the County.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution authorizing the County Mayor or County Mayor's designee to develop, negotiate, accept, and execute agreements between the County and with third parties, such as other governmental entities, for the placement of artificial reefs in favor of Miami-Dade County in general. The Artificial Reef Agreement form is attached as Exhibit 1 to the resolution, and the Artificial Reef Agreement between the County and the City of Miami Beach related to a particular artificial reef project is attached as Exhibit 2 to this resolution.

SCOPE

Artificial reefs may be utilized by any resident or visitor; however, work authorized by this resolution will occur in permitted artificial reef sites within Biscayne Bay and the coastal waters of the County adjacent to Commission Districts 3, 4, 5, and 7 represented by Commissioner Keon Hardemon, Commissioner Micky Steinberg, Commissioner Eileen Higgins, and Commissioner Raquel A. Regalado, respectively.

DELEGATION OF AUTHORITY

If approved, this resolution will authorize the County Mayor or County Mayor's designee to negotiate, accept, and execute Artificial Reef Agreements, in substantially the form attached as Exhibit 1 to this resolution, on behalf of Miami-Dade County. The County Mayor or County Mayor's designee will be authorized to negotiate, accept, and execute the Artificial Reef Agreement between the County and the City of Miami Beach, in substantially the form attached as Exhibit 2 to this resolution. In addition, recognizing that the Artificial Reef Agreement with Miami Beach has provisions related to self-insurance that are specific to municipalities and local governments, for future Artificial Reef Agreements with municipalities, the County Mayor or County Mayor's designee will also be authorized to negotiate, accept, and execute Artificial Reef Agreements between the County and municipalities, in substantially the form attached as Exhibit 2, but with the project details, insurance and indemnification information for the particular artificial reef project in lieu of the specifics for Miami Beach's project. For all such Artificial Reef Agreements, such authority shall include the authority to review and approve the required exhibits to such Artificial Reef Agreements, and amendments to revise such exhibits, which relate to the specific construction and deployment methodology for the particular proposed artificial reef work.

FISCAL IMPACT/FUNDING SOURCE

Under the proposed Artificial Reef Agreements, placement of artificial reef material will be undertaken by third parties, and the County would not be paying or otherwise compensating such third parties for such work. Such work would be undertaken under regulatory permits where the County is the permittee, and under the terms of the attached Artificial Reef Agreements, the County's costs are anticipated to be limited to the staff time required to prepare and administer the Artificial Reef Agreements, monitor the work, conduct routine inspections and prepare associated reports. Any associated costs would be funded from DERM's Restoration and Enhancement Section (RE 04110401, Fund: G3012).

TRACK RECORD/MONITOR

The Assistant Director for the Division of Environmental Resources Management in the Department of Regulatory and Economic Resources (RER-DERM), Lisa Spadafina, will monitor the proposed Artificial Reef Agreements.

BACKGROUND

Miami-Dade County's Artificial Reef Program was established in 1981 and is managed by the Department of Regulatory and Economic Resources, Division of Environmental Resources Management (DERM). The County's Artificial Reef Program places and manages artificial reefs to further various policies from the County's Comprehensive Development Management Plan [Coastal Management \(CM\) Element](#), including CM-1I, CM-2D, CM-2G, and CM-2H.

Since 1981, the County's Artificial Reef Program has placed nearly 300 individual artificial reefs in sites authorized by environmental permits from local, state, and federal agencies. These artificial reefs enhance marine habitats, protect existing natural resources, and increase recreational fishing and diving opportunities for both residents and tourists and enhance and benefit the marine system by providing additional habitat in barren sandy areas for the settlement and growth of benthic organisms and foraging opportunities and shelter for fish assemblages.

The placement of artificial reefs in Miami-Dade County generally requires local, state, and federal regulatory permits. Miami-Dade County holds such local, state, and federal regulatory permits for the placement of artificial reefs, and the County is responsible for the work conducted under such permits. The County may allow a third party to conduct placement of artificial reef material under the County's regulatory permits, in accordance with all applicable permits and plans.

The Artificial Reef Agreement form is attached as Exhibit 1 to the resolution. This item would allow the County to execute Artificial Reef Agreements, in substantially the form attached as Exhibit 1, with third parties for the placement of artificial reef material under the County's local, state, and federal regulatory permits. Through these agreements the County will be provided legal recourse if, for example, the artificial reef placement is not conducted in accordance with the approved plans, the applicable permits held by Miami-Dade County, or the terms of the Artificial Reef Agreement.

In addition to the Artificial Reef Agreement form that is attached as Exhibit 1, attached as Exhibit 2 is an agreement between the County and the City of Miami Beach (the "Miami Beach Agreement") related to the City's request for permission to work under the County's regulatory permits in order to deploy artificial reef material at the County's South Beach Artificial Reef Site. This Miami Beach Agreement attached as Exhibit 2 is substantially similar to the Artificial Reef Agreement form attached as Exhibit 1, but the Miami Beach Agreement also includes particular terms, such as insurance, that have been filled out and tailored for City of Miami Beach's particular project. As with the Artificial Reef Agreement form attached as Exhibit 1, for the Miami Beach Agreement, the City as the applicant will be required to submit various documents that will be attached to as exhibits to said Miami Beach Agreement and are related to the specific construction and deployment methodology, based on the proposed work. Should the Board approve this item's delegation of authority to the Mayor or Mayor's designee, these required attachments will be reviewed and require approval by DERM for consistency with the applicable federal, state and local permits prior to the execution of said Artificial Reef Agreement.

All Artificial Reef Agreements will be reviewed by the County Attorney's Office prior to execution. The County will not be required or compelled to execute such Artificial Reef Agreements if the terms or conditions are not favorable to the County.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 17, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

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. 14(A)(1)
10-17-23

RESOLUTION NO. R-936-23

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO DEVELOP, NEGOTIATE, ACCEPT AND EXECUTE AGREEMENTS AND OTHER RELATED DOCUMENTS WITH THIRD PARTIES FOR ARTIFICIAL REEF PLACEMENT IN FAVOR OF MIAMI-DADE COUNTY UNDER THE AUTHORITY OF PERMITS HELD BY MIAMI-DADE COUNTY; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO DEVELOP, NEGOTIATE, ACCEPT AND EXECUTE AN ARTIFICIAL REEF AGREEMENT AND OTHER RELATED DOCUMENTS WITH THE CITY OF MIAMI BEACH FOR ARTIFICIAL REEF PLACEMENT UNDER THE AUTHORITY OF PERMITS HELD BY MIAMI-DADE COUNTY

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:

Section 1. This Board hereby authorizes the County Mayor or County Mayor's designee to develop, negotiate, accept, and execute Artificial Reef Agreements, in substantially the form attached hereto as Exhibit 1, and other related documents such as required exhibits for said Artificial Reef Agreements and amendments to revise the exhibits to said Artificial Reef Agreements, with third parties for appropriate artificial reef placement, in favor of Miami-Dade County, to the extent that the County, as the holder of required permits issued by the Florida Department of Environmental Protection, the United States Army Corps of Engineers, Miami-Dade County, and any other applicable agency, has the ability and the authority to authorize such uses, upon review and final approval of such Artificial Reef Agreements by the County Attorney's Office for legal sufficiency.

Section 2. This Board hereby authorizes the County Mayor or County Mayor's designee to develop, negotiate, accept, and execute the Artificial Reef Agreement between the County and the City of Miami Beach (the "Miami Beach Agreement"), in substantially the form attached hereto as Exhibit 2, and other related documents such as required exhibits for said Miami Beach Agreement and amendments to revise the exhibits for said Miami Beach Agreement, for appropriate artificial reef placement, in favor of Miami-Dade County, to the extent that the County, as the holder of required permits issued by the Florida Department of Environmental Protection, the United States Army Corps of Engineers, Miami-Dade County, and any other applicable agency, has the ability and the authority to authorize such uses, upon review and final approval of such Miami Beach Agreement by the County Attorney's Office for legal sufficiency.

Section 3. In addition to the authority delegated in section 1 of this resolution, for future such agreements with municipalities, this Board further authorizes the County Mayor or County Mayor's designee to develop, negotiate, accept, and execute future Artificial Reef Agreements between the County and municipalities, in substantially the form attached hereto as Exhibit 2 but with the project details, insurance and indemnification information for the particular artificial reef project, and other related documents such as required exhibits for said Artificial Reef Agreements and amendments to revise the exhibits for said Artificial Reef Agreements, for appropriate artificial reef placement, in favor of Miami-Dade County, to the extent that the County, as the holder of required permits issued by the Florida Department of Environmental Protection, the United States Army Corps of Engineers, Miami-Dade County, and any other applicable agency, has the ability and the authority to authorize such uses, upon review and final approval of such Artificial Reef Agreements by the County Attorney's Office for legal sufficiency.

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

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	absent		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of October, 2023. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

EXHIBIT 1

ARTIFICIAL REEF AGREEMENT BETWEEN

AND MIAMI-DADE COUNTY

THIS ARTIFICIAL REEF AGREEMENT ("Agreement") is made and entered into this _____ day of _____ by and between _____ (hereinafter referred to as the "Applicant") and **Miami-Dade County**, a political Subdivision of the State of Florida (hereinafter referred to as the "County").

WHEREAS, the County, through its Department of Regulatory and Economic Resources, Division of Environmental Resources Management (hereinafter referred to as "DERM"), manages artificial reef activities and is the permittee for various local, state, and federal regulatory permits for artificial reefs in Miami-Dade County outside of Biscayne National Park and Florida Keys National Marine Sanctuary; and

WHEREAS, the Applicant is requesting to place approximately _____ cubic yards / tons of artificial reef material at the _____ Artificial Reef Site; and

WHEREAS, the Applicant is requesting to conduct this artificial reef work under certain local, state, and federal regulatory permits pursuant to which the County is the permittee and the County has been authorized to conduct certain artificial reef work; and

WHEREAS, the County is permitted to conduct artificial reef activities at the _____ Artificial Reef Site pursuant to: Miami-Dade County Class I Coastal Construction Permit No. _____; the Florida Department of Environmental Protection (FDEP) General/Environmental Resource Permit No. _____ and the United States Army Corps of Engineers (the "Corps") Jacksonville (SAJ) Permit No. _____, as they may be amended from time to time (collectively, the "County Permits"); and

WHEREAS, the Applicant has represented that all of its artificial reef materials, the Applicant's proposed manner of installation, and all other components of its artificial reef project are in full compliance with all of the requirements and regulations in the above-referenced County Permits; and

WHEREAS, the Applicant needs the County's authorization to work under the County's Permits and place artificial reef material, and the Applicant has requested such County authorization; and

WHEREAS, the Applicant has presented detailed project plans (defined below as the "Artificial Reef Plans") for its proposed work, which plans are exhibits to this Agreement and incorporated by reference, and the Applicant shall conduct all work consistent with such Artificial Reef Plans; and

WHEREAS, this Agreement allows the Applicant to conduct certain artificial reef work under the County Permits, pursuant to the conditions and requirements stated herein,

NOW THEREFORE, in consideration of these premises and mutual covenants contained herein, the parties hereby agree as follows:

1. The foregoing recitals are hereby incorporated into this Agreement and made a part hereof.
2. The Applicant has submitted project plans to the County for the proposed artificial reef work, which consist, at a minimum, of a Project Plan attached hereto as **Exhibit A**; a Transit and

Construction Plan attached hereto as **Exhibit B**; and a Post-Construction Plan attached hereto as **Exhibit C** [*Any other supplementary attached exhibits deemed necessary by the County shall be attached as additional exhibits*] (hereinafter referred to collectively as the "Artificial Reef Plans"). The Artificial Reef Plans are incorporated into this Agreement as if fully set forth herein.

3. The Artificial Reef Plans are required to include all the pertinent and necessary information for execution and authorization to implement the proposed work, and the Applicant agrees and acknowledges that it has an ongoing obligation under this Agreement to ensure that the Artificial Reef Plans are up-to-date, complete, and include, at a minimum, all of the minimum required information as set forth herein.
4. If any information is missing from the Artificial Reef Plans, if information contained therein is no longer fully accurate or correct, or if changes to the Artificial Reef Plans are needed or desired for any reason, the Applicant is required to first submit to DERM a written request for an amendment to said Artificial Reef Plans, and any such amendment shall require written approval from the DERM Director or DERM Director's designee.
5. The Applicant shall perform all work pursuant to attached Artificial Reef Plans, including all provisions and components of the attached Artificial Reef Plans, and in compliance with all requirements in the County Permits. For avoidance of doubt, the Applicant shall comply with the most current versions of all County Permits in effect at the time of any work related to the Artificial Reef Plans.
6. The Project Plan attached as **Exhibit A** is required to include, at a minimum, the following:
 - a. Statement as to the purpose and goals of the artificial reef project and how the project will provide net benefits to the marine environment and stakeholders.
 - b. Artificial reef project map/plan.
 - c. Detailed description and/or plans of each proposed unique artificial reef element including but not limited to material type and dimensions, how each element will be arranged, stacked, or otherwise secured to one another, and how the material and arrangement complies with all County Permit conditions.
 - d. Selected deployment contractor with prior successful artificial reef project experience.
 - e. Location where artificial reef materials are being built and/or staged prior to deployment.
 - f. Project budget itemized by task.
 - g. Proposed project timeline(s) and implementation schedule(s).
7. The Transit and Construction Plan attached as **Exhibit B** is required to include, at a minimum, the following:
 - a. Vessel/Barge specifications (length, draft, etc.) that will be used to transport the artificial reef material to the deployment site including how these vessels/barges comply with any Coast Guard standards required for safe transport.
 - b. Partially completed Florida Fish and Wildlife Conservation Commission Cargo Manifest (County staff will complete the form after inspection of artificial reef material).
 - c. Description on how artificial reef material will be loaded and secured on the transporting vessel in compliance with Coast Guard standards.
 - d. Travel path from staging site/loading area to and from the artificial reef site and how impacts to natural resources will be avoided.
 - e. Anchoring methodologies to position the barge, crane, or other equipment at the deployment location in areas void of benthic resources.
 - f. Deployment methodology, including equipment/machinery, that will be utilized to strategically place artificial reef material to adhere to project plans and permit conditions and to avoid impact to existing natural or artificial resources in the project area.

- g. Construction/deployment schedule detailing the general order of deployments and estimated time for completion as well as more detailed plans about day-to-day operations.
8. The Post-Construction Plan attached as **Exhibit C** is required to include, at a minimum, the following:
 - a. Description of how final location and relief of artificial reef material will be verified and documented including the submission of post deployment bathymetric survey depending on scope and scale of the project.
9. The Applicant shall adhere to and uphold all conditions of all applicable County Permits, including, but not limited to, the requirements for the placement of artificial reef material within the approved locations; placement of artificial reef material that is free of contaminants, debris and solid waste; and placement of artificial reef material without impacting existing natural resources.
10. It is the Applicant's responsibility to review, be aware of, and comply with all relevant County Permit conditions and deadlines.
11. With respect to any written submittals, reports, documentation, including but not limited to photos or videos, audit, notices, or other written materials that are requested or required pursuant to any County Permit (collectively, "Reports"), the Applicant shall submit all Reports to DERM with adequate time for DERM to review and approve prior to the deadlines or timelines by which DERM would need to submit the respective Report to the respective agencies, as set forth in the respective County Permits. The County, as the permittee, through DERM staff, will submit the Reports, after review and approval, to the appropriate permitting agency, unless the DERM Director or the DERM Director's designee makes a written request to the Applicant to submit the Reports directly to agencies. Nothing in this Agreement shall empower or authorize the Applicant to act as an agent of the County, nor is the Applicant authorized to seek modification of any of the County's permits, or otherwise bind the County in any way.
12. Post-construction, the County will perform routine inspections that are required by the County permits and corresponding reports required by the County permits. Whether an inspection is considered a "routine" inspection pursuant to this paragraph shall be determined by the County in its sole discretion, and the County, upon request by the Applicant, shall advise whether a particular inspection is a "routine" inspection. Notwithstanding anything to the contrary herein, an inspection shall not be considered a "routine" inspection if it is any way related to construction, installation, corrective action, or violation of this agreement or the County permits, and any such inspection shall remain the obligation of the Applicant.
13. The Applicant shall expeditiously implement and shall be solely responsible for implementing the attached Artificial Reef Plans, in accordance with all County Permits. The Applicant shall be responsible for all aspects of the Artificial Reef Plans, with the exception as provided in Paragraph 11 of the submission of Reports to the respective permitting agencies for the County Permits. All such Reports to the permitting agencies of the County Permits shall be made by the County, unless otherwise requested in writing by the County to the Applicant.
14. Notwithstanding anything to the contrary herein, this Agreement shall not authorize the Applicant to do any work not expressly included in the attached Artificial Reef Plans.
15. To the extent that all or a portion of the work included in the attached Artificial Reef Plans will require a modification or change to any of the County Permits after the effective date of

this Agreement, the Applicant shall, upon request by the County, prepare all plans and specifications for any such County Permit modifications or changes. In addition, the Applicant agrees to reimburse the County, including but not limited to paying the applicable hourly rate for DERM staff time, for any costs incurred by the County associated with modifying a County Permit in connection with the Artificial Reef Plans.

16. If the Applicant does not comply with any and all of the applicable County Permit conditions and all provisions of this Agreement and the attached Artificial Reef Plans, including, but not limited to, the requirement that the Applicant submit all required Reports to the County, the County may require the Applicant to take corrective actions, as determined the discretion of the Director or the DERM Director's designee. Such corrective actions may include, but are not limited to, removing all or part of the placed artificial reef material, providing additional documentation as required by the respective permitting agencies of the County Permits, and reimbursing the County for all of the County staff time used in preparing and implementing any and all corrective actions needed. Any and all corrective actions shall be at the Applicant's sole cost and expense, including the payment of all associated penalties.
17. Additionally, should a federal, state, and local permitting agency require the County to take corrective actions, including, but not limited to mitigation, or pay penalties related to actions or inaction by the Applicant, the Applicant shall be solely responsible for conducting any and all corrective actions and paying any and all associated penalties as required by the respective agency or agencies. In addition, Applicant shall, upon written request by DERM, engage in discussions with the agency requesting these corrective actions and shall keep the County fully apprised of these discussions and shall consult with the County and obtain written approval from the DERM Director or the DERM Director's designee prior to performing any subsequent corrective work under County permits. Any and all corrective actions shall be at the Applicant's sole cost and expense, including the payment of all associated penalties.
18. The Applicant shall keep records which shall include, but not be limited to, project documents, contracts, deliverables, and correspondence. All such records will be retained by the Applicant for not less than five (5) years beyond the end date of this Agreement. This Agreement, with any appendices and attachments, is a public record and is subject to public inspection under Chapter 286, Florida Statutes, popularly known as the "Government in the Sunshine Law". When the Applicant advises the County in writing of the sensitive nature of information claimed to be proprietary, to the extent that Chapter 286, Florida Statutes, allows proprietary information to be withheld from public inspection, the County shall respect the sensitive nature of such proprietary information and not reveal such information only to the extent allowed by law.
19. **If the Applicant has questions regarding the application of Chapter 119, Florida Statutes, to the Applicant's duty to provide public records relating to this Agreement, contact the custodian of public records at 305-372-6564, DermRecords@miamidade.gov, or 701 NW 1st Court, Suite 300, Miami, FL 33136.**

To the extent required by applicable law, the Applicant shall:

- a. Keep and maintain public records required by County in connection with this Agreement.
- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes, or as otherwise provided by law.

- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the Applicant does not transfer the records to the County.
 - d. Upon completion or termination of this Agreement, transfer, at no cost, to the County all public records in possession of the Applicant or keep and maintain public records required by the County in connection with this Agreement. If the Applicant transfers all public records to the County upon completion or termination of this Agreement, the Applicant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Applicant keeps and maintains public records upon completion or termination of this Agreement, the Applicant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from County's custodian of public records, in a format that is compatible with the information technology systems of County.
20. The Applicant shall provide the County with access to all of its records related to this Agreement and shall provide such assistance as may be necessary to facilitate the review of such records by the County. Additionally, all contracts between the Applicant and third parties for work or materials related to the activities contemplated by this Agreement shall be provided to the County upon request and the County shall have the right to audit records associated with these contracts. The County shall have the right to access all records for not less than five (5) years beyond the end of this agreement. The Applicant shall make all records or documents which relate to this Agreement available to the County electronically, if so available.
21. Before commencing any construction work authorized under this Agreement, the Applicant shall execute, record in the public records of the County and deliver to the County, a payment and performance bond, in satisfaction of the requirements of Section 255.05 of the Florida Statutes and in satisfaction of the County, in the full amount of the proposed work for such project. The requirement that the Applicant shall provide this payment and performance bond is in addition to all other requirements of this Agreement and shall not be construed as a limitation on the extent of the Applicant's responsibility or liability pursuant to the indemnification provisions of this Agreement. The County will provide standard payment and performance bond forms as needed.
22. The Applicant shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Applicant or its employees, agents, servants, partners principals or subcontractors. The Applicant 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 attorney's fees which may issue thereon. The Applicant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Applicant 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.

The Applicant shall furnish to **Department of Regulatory and Economic Resources-Division of Environmental Resources (DERM) (701 NW 1st Court, Suite 400, Miami FL 33136)**, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets

the requirements as outlined below: *[insert project specific insurance provisions as recommended by Risk Management]*

23. With respect to any contractor or other entity or organization that performs any of the work, duties, or other obligations in the Artificial Reef Plans, the Applicant shall require all such contractors, entities, and organizations to indemnify and hold harmless the County and its officers, employees, agents and instrumentalities in the same manner as provided in paragraph 22 above. In addition, for any insurance that the Applicant requires of any contractor or other entity or organization that will be performing any of the work, duties, or other obligations in the Artificial Reef Plans, the Applicant shall require such insurance to name the County as an additional insured.
24. The term "Applicant" shall include the Applicant and its agents and employees.
25. Nothing in this Agreement relieves the Applicant from the need to obtain any other local, state or federal permits or approvals, as may be required.
26. The Applicant shall comply with all present and future applicable laws, ordinances, rules, regulations, authorizations, orders, and requirements of all federal, state, county and municipal governments, the departments, bureaus, or commissions thereof, authorities, boards or officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions having or acquiring jurisdiction over all or any part of the Artificial Reef Plans.
27. In the event of a breach of any of the provisions of this Agreement by the Applicant, the County may pursue correction action and/or terminate this Agreement, and/or seek to enforce any of its provisions. The remedies that the County may pursue shall be in addition to any other remedy provided for herein or otherwise allowable by law. To the extent that any artificial reef material has been placed pursuant to this Agreement, all of the Applicant's obligations and requirements in this Agreement shall survive the termination of this Agreement.
28. DERM may conduct periodic site inspections of the work to ensure compliance with all the conditions of the Plans, and the Applicant shall ensure that the County has access to conduct any such site inspections.
29. This Agreement shall be effective beginning on the date of execution by all parties. The Artificial Reef Plans may be amended, only after review and written approval by the County, and after being incorporated into this Agreement through a written amendment.
30. No payment from the County or other consideration from the County is required as part of this Agreement. The sole consideration provided by the County to the Applicant for the Applicant's placement of artificial reef material and the work contemplated by this Agreement is the ability of the Applicant to work under the County Permits as described herein. This is agreed to be valuable consideration to the Applicant.
31. The Applicant acknowledges and agrees that the County has no obligation or duty to maintain, protect, preserve, repair, or otherwise care for the artificial reef material included in the Artificial Reef Plans, and in the event that the County is either required by a regulatory agency or elects to move or remove any or all of said artificial reef material, the Applicant shall have no recourse whatsoever against the County and in no event shall the County be liable to the Applicant for damages or any other form of relief.
32. Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this

Agreement.

33. The Applicant cannot assign its obligations under this Agreement to another party.
34. All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and shall be sent by registered or certified mail, return receipt required, to the parties as follows:

As to the County:

Lisa Spadafina, Assistant Director
Dept. of Regulatory and Economic
Resources-DERM
701 N.W. 1 Court, Suite 400
Miami, Florida 33136

As to the Applicant:

(Contact name/title)
(Company name)
(Address)
(Address)
(Contact phone#)

or to such other address as may hereafter be provided by the parties in writing. Notices by registered or certified mail shall be deemed received on the delivery date indicated by the U.S. Postal Service on the return receipt.

35. The Applicant shall not make representations about the County's position or role with respect to this Agreement, including, but not limited to, the work proposed in the attached Artificial Reef Plans, or make statements on behalf of the County without prior direction and the County's written approval.
36. *[This paragraph is to be included for all agreements between the County and a governmental entity and also all agreements related to projects planned within 1000m of shore.]* Recognizing that artificial reefs are one of the many types of coastal structures that may affect or otherwise impact the coast, and that coordination and cooperation with the County is needed so as to avoid the potential for negative impacts, whether from a particular project or cumulatively, the Applicant agrees to coordinate and cooperate in advance with the County on all proposed artificial reefs and other coastal structures, wave breaks, jetties, hybrid reefs, and any other structures to be located in the ocean, whether such structures are proposed under the County's regulatory permits or another permittee's regulatory permits. These requirements that the Applicant coordinate and cooperate in advance with the County shall apply to all of the above-mentioned coastal structures that are proposed, funded, or otherwise sponsored by the Applicant.
37. This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Any litigation hereunder shall be brought in the Circuit Court of the Eleventh Judicial Circuit of Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative(s) on the latest day and year noted below.

APPLICANT

By: _____
[Title of Applicant's official] Date

By: _____
Print Name Print Title

MIAMI-DADE COUNTY

By: _____
County Mayor or County Mayor's Designee Date

ATTEST: Juan Fernandez-Barquin,
Clerk of the Court and Comptroller

By: _____
(Deputy Clerk Signature)

Print Name: _____

Date: _____

EXHIBIT 2

ARTIFICIAL REEF AGREEMENT BETWEEN CITY OF MIAMI BEACH AND MIAMI-DADE COUNTY

THIS ARTIFICIAL REEF AGREEMENT ("Agreement") is made and entered into this _____ day of _____ by and between the **City of Miami Beach** (hereinafter referred to as the "City") and **Miami-Dade County**, a political Subdivision of the State of Florida (hereinafter referred to as the "County").

WHEREAS, the County, through its Department of Regulatory and Economic Resources, Division of Environmental Resources Management (hereinafter referred to as "DERM"), manages artificial reef activities and is the permittee for various local, state, and federal regulatory permits for artificial reefs in Miami- Dade County outside of Biscayne National Park and Florida Keys National Marine Sanctuary; and

WHEREAS, the City is requesting to place approximately _____ cubic yards / tons of artificial reef material at the South Beach Artificial Reef Site; and

WHEREAS, the City is requesting to conduct this artificial reef work under certain local, state, and federal regulatory permits pursuant to which the County is the permittee and the County has been authorized to conduct certain artificial reef work; and

WHEREAS, the County is permitted to conduct artificial reef activities at the South Beach Artificial Reef Site pursuant to: Miami-Dade County Class I Coastal Construction Permit No. 2011-CLIPER-00185; the Florida Department of Environmental Protection (FDEP) General Permit No. 13-0402095-001-EG, and the United States Army Corps of Engineers (the "Corps") Jacksonville (SAJ) Permit No. SAJ-2010-01270, as they may be amended from time to time (collectively, the "County Permits"); and

WHEREAS, the City has represented that all of its artificial reef materials, the City's proposed manner of installation, and all other components of its artificial reef project are in full compliance with all of the requirements and regulations in the above-referenced County Permits; and

WHEREAS, the City needs the County's authorization to work under the County Permits and place artificial reef material, and the City has requested such County authorization; and

WHEREAS, the City has presented detailed project plans (defined below as the "Artificial Reef Plans") for its proposed work, which are exhibits to this Agreement and incorporated by reference, and the City shall conduct all work consistent with such Artificial Reef Plans; and

WHEREAS, this Agreement allows the City to conduct certain artificial reef work under the County Permits, pursuant to the conditions and requirements stated herein,

NOW THEREFORE, in consideration of these premises and mutual covenants contained herein, the parties hereby agree as follows:

1. The foregoing recitals are hereby incorporated into this Agreement and made a part hereof.
2. The City has submitted project plans to the County for the proposed artificial reef work, which consist, at a minimum, of a Project Plan attached hereto as **Exhibit A**; a Transit and Construction Plan attached hereto as **Exhibit B**; and a Post-Construction Plan attached hereto as **Exhibit C** [*Any other supplementary attached exhibits deemed necessary by the County shall be attached as additional exhibits*] (hereinafter referred to collectively as the "Artificial Reef Plans"). The Artificial Reef Plans are incorporated into this Agreement as if fully set forth herein.
3. The Artificial Reef Plans are required to include all the pertinent and necessary information for execution and authorization to implement the proposed work, and the City agrees and acknowledges that it has an ongoing obligation under this Agreement to ensure that the Artificial Reef Plans are up-to-date, complete, and include, at a minimum, all of the minimum required information as set forth herein.
4. If any information is missing from the Artificial Reef Plans, if information contained therein is no longer fully accurate or correct, or if changes to the Artificial Reef Plans are needed or desired for any reason, the City is required to first submit to DERM a written request for an amendment to said Artificial Reef Plans, and any such amendment shall require written approval from the DERM Director or DERM Director's designee.
5. The City shall perform all work pursuant to attached Artificial Reef Plans, including all provisions and components of the attached Artificial Reef Plans, and in compliance with all requirements in the County Permits. As a courtesy, the County will provide notice to the City as to relevant changes to the County Permits, but failure by the County to provide such courtesy notice shall not affect the City's obligations. For avoidance of doubt, the City shall comply with the most current versions of all County Permits in effect at the time of any work related to the Artificial Reef Plans.
6. The Project Plan attached as **Exhibit A** is required to include, at a minimum, the following:
 - a. Statement as to the purpose and goals of the artificial reef project and how the project will provide net benefits to the marine environment and stakeholders.
 - b. Artificial reef project map/plan.
 - c. Detailed description and/or plans of each proposed unique artificial reef element including but not limited to material type and dimensions, how each element will be arranged, stacked, or otherwise secured to one another, and how the material and arrangement complies with all County Permit conditions.
 - d. Selected deployment contractor with prior successful artificial reef project experience.
 - e. Location where artificial reef materials are being built and/or staged prior to deployment.
 - f. Project budget itemized by task.
 - g. Proposed project timeline(s) and implementation schedule(s).
7. The Transit and Construction Plan attached as **Exhibit B** is required to include, at a minimum, the following:
 - a. Vessel/Barge specifications (length, draft, etc.) that will be used to transport the artificial reef material to the deployment site including how these vessels/barges comply with any Coast Guard standards required for safe transport.
 - b. Partially completed Florida Fish and Wildlife Conservation Commission Cargo Manifest (County staff will complete the form after inspection of artificial reef material).
 - c. Description on how artificial reef material will be loaded and secured on the transporting vessel in compliance with Coast Guard standards.
 - d. Travel path from staging site/loading area to and from the artificial reef site and how

- impacts to natural resources will be avoided.
- e. Anchoring methodologies to position the barge, crane, or other equipment at the deployment location in areas void of benthic resources.
 - f. Deployment methodology, including equipment/machinery, that will be utilized to strategically place artificial reef material to adhere to project plans and permit conditions and to avoid impact to existing natural or artificial resources in the project area.
 - g. Construction/deployment schedule detailing the general order of deployments and estimated time for completion as well as more detailed plans about day-to-day operations.
8. The Post-Construction Plan attached as **Exhibit C** is required to include, at a minimum, the following:
 - a. Description of how final location and relief of artificial reef material will be verified and documented including the submission of post deployment bathymetric survey depending on scope and scale of the project.
 9. The City shall adhere to and uphold all conditions of all applicable County Permits, including, but not limited to, the requirements for the placement of artificial reef material within the approved locations; placement of artificial reef material that is free of contaminants, debris and solid waste; and placement of artificial reef material without impacting existing natural resources.
 10. It is the City's responsibility to review, be aware of, and comply with all relevant County Permit conditions and deadlines. As a courtesy, the County will provide notice to the City as to relevant changes to the County Permits, but failure by the County to provide such courtesy notice shall not affect the City's obligations.
 11. With respect to any written submittals, reports, documentation, including but not limited to photos or videos, audit, notices, or other written materials that are requested or required pursuant to any County Permit (collectively, "Reports"), the City shall submit all Reports to DERM with adequate time for DERM to review and approve prior to the deadlines or timelines by which DERM would need to submit the respective Report to the respective agencies, as set forth in the respective County Permits. The County, as the permittee, through DERM staff, will submit the Reports, after review and approval, to the appropriate permitting agency, unless the DERM Director or the DERM Director's designee makes a written request to the City to submit the Reports directly to agencies. Nothing in this Agreement shall empower or authorize the City to act as an agent of the County, nor is the City authorized to seek modification of any of the County Permits, or otherwise bind the County in any way.
 12. Post-construction, the County will perform routine inspections that are required by the County Permits and the corresponding reports required by the County Permits. Whether an inspection is considered a "routine inspection" pursuant to this paragraph shall be determined by the County in its sole discretion, and the County, upon request by the City, shall advise whether a particular upcoming inspection is a "routine inspection." Notwithstanding anything to the contrary herein, an inspection shall not be considered a "routine inspection" if it is in any way related to construction, installation, corrective action, or violation of this Agreement or the County Permits, and any such inspection shall remain the obligation of the City.
 13. The City shall expeditiously implement and shall be solely responsible for implementing the attached Artificial Reef Plans, in accordance with all County Permits. The City shall be responsible for all aspects of the Artificial Reef Plans, with the exception as provided in Paragraph 11 of the submission of Reports to the respective permitting agencies for the County Permits. All such Reports to the permitting agencies of the County Permits shall be

made by the County, unless otherwise requested in writing by the County to the City.

14. Notwithstanding anything to the contrary herein, this Agreement shall not authorize the City to do any work not expressly included in the attached Artificial Reef Plans.
15. To the extent that all or a portion of the work included in the attached Artificial Reef Plans will require a modification or change to any of the County Permits after the effective date of this Agreement, the City shall, upon request by the County, prepare all plans and specifications for any such County Permit modifications or changes. In addition, the City agrees to reimburse the County, including but not limited to paying the applicable hourly rate for DERM staff time, for any costs incurred by the County associated with modifying a County Permit in connection with the Artificial Reef Plans. The County will submit such requests for reimbursement to the City together with documentation as to such costs.
16. If the City does not comply with any and all of the applicable County Permit conditions and all provisions of this Agreement and the attached Artificial Reef Plans, including, but not limited to, the requirement that the City submit all required Reports to the County, the County may require the City to take corrective actions, as determined the discretion of the DERM Director or the DERM Director's designee. Such corrective actions may include, but are not limited to, removing all or part of the placed artificial reef material, providing additional documentation as required by the respective permitting agencies of the County Permits, and reimbursing the County for all of the County staff time used in preparing and implementing any and all corrective actions needed. Any and all corrective actions shall be at the City's sole cost and expense, including the payment of all associated penalties.
17. Additionally, should a federal, state, or local permitting agency require the County to take corrective actions, including, but not limited to mitigation, or pay penalties related to actions or inaction by the City, the City shall be solely responsible for conducting any and all corrective actions and paying any and all associated penalties as required by the respective agency or agencies. In addition, City shall, upon written request by DERM, engage in discussions with the agency requesting these corrective actions and shall keep the County fully apprised of these discussions and shall consult with the County and obtain written approval from the DERM Director or the DERM Director's designee prior to performing any subsequent corrective work under County permits. Any and all corrective actions shall be at the City's sole cost and expense, including the payment of all associated penalties.
18. The City shall keep records which shall include, but not be limited to, project documents, contracts, deliverables, and correspondence. All such records will be retained by the City for not less than five (5) years beyond the end date of this Agreement. This Agreement, with any appendices and attachments, is a public record and is subject to public inspection under Chapter 286, Florida Statutes, popularly known as the "Government in the Sunshine Law". When the City advises the County in writing of the sensitive nature of information claimed to be proprietary, to the extent that Chapter 286, Florida Statutes, allows proprietary information to be withheld from public inspection, the County shall respect the sensitive nature of such proprietary information and not reveal such information only to the extent allowed by law.
19. **If the City has questions regarding the application of Chapter 119, Florida Statutes, to the City's duty to provide public records relating to this Agreement, contact the custodian of public records at 305-372-6564, DermRecords@miamidade.gov, or 701 NW 1st Court, Suite 300, Miami, FL 33136.**

To the extent required by applicable law, the City shall:

- a. Keep and maintain public records required by County in connection with this Agreement.
 - b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes, or as otherwise provided by law.
 - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the City does not transfer the records to the County.
 - d. Upon completion or termination of this Agreement, transfer, at no cost, to the County all public records in possession of the City or keep and maintain public records required by the County in connection with this Agreement. If the City transfers all public records to the County upon completion or termination of this Agreement, the City shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the City keeps and maintains public records upon completion or termination of this Agreement, the City shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from County's custodian of public records, in a format that is compatible with the information technology systems of County.
20. The City shall provide the County with access to all of its records related to this Agreement and shall provide such assistance as may be necessary to facilitate the review of such records by the County. Additionally, all contracts between the City and third parties for work or materials related to the activities contemplated by this Agreement shall be provided to the County upon request and the County shall have the right to audit records associated with these contracts. The County shall have the right to access all records for not less than five (5) years beyond the end of this Agreement. The City shall make all records or documents which relate to this Agreement available to the County electronically, if so available.
21. Before commencing any construction work authorized under this Agreement, the City shall cause the general contractor that will be performing the work encompassed in the Artificial Reef Plans (the "Project Contractor") to procure, execute, record in the public records of the County and deliver to the County, a payment and performance bond reflecting the County and the City as obligees, in satisfaction of the requirements of Section 255.05 of the Florida Statutes and in satisfaction of the County's and City's bonding requirements, in the full amount of the proposed work for such project. The requirement that the City cause the Project Contractor to provide this payment and performance bond is in addition to all other requirements of this Agreement and shall not be construed as a limitation on the extent of the City's responsibility or liability pursuant to the indemnification provisions of this Agreement. The County will provide standard payment and performance bond forms as needed.
22. The City shall and shall require the Project Contractor to indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the City or its employees, agents, servants, partners principals or subcontractors. The City shall and shall require the Project Contractor to 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 attorney's fees which may issue thereon. The City expressly understands and agrees and shall require the Project Contractor to agree that any insurance protection required by this Agreement or otherwise provided by the City or the Project Contractor 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.

The City and the Project Contractor shall each furnish to **Department of Regulatory and Economic Resources-Division of Environmental Resources (DERM) (701 NW 1st Court, Suite 400, Miami FL 33136)**, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the City as required by Florida Statute 440.
 - a. As applicable, such worker's compensation insurance should include coverage required under the U.S. Longshoremen and Harbor Workers' Act (USL&H) and/or Jones Act for any activities on or about navigable water.
- B. Commercial General/Marine Liability Insurance in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, not to exclude Products & Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Protection & Indemnity insurance for any vessels used in connection with the work, in the name of the owner of such vessel(s) in an amount not less than \$1,000,000 per occurrence. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

All 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:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by 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

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 Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

Notwithstanding anything to the contrary herein, the County acknowledges that the City may self-

insure for any of the above required coverages and the foregoing provisions are not intended to waive the City's right to so self-insure pursuant to Section 768.28(16)(a), Florida Statutes and other applicable law.

23. With respect to any contractor or other entity or organization that performs any of the work, duties, or other obligations in the Artificial Reef Plans, the City shall require all such contractors, entities, and organizations to indemnify and hold harmless the County and its officers, employees, agents and instrumentalities in the same manner as provided in paragraph 22 above. In addition, for any insurance that the City requires of any contractor or other entity or organization that will be performing any of the work, duties, or other obligations in the Artificial Reef Plans, the City shall require such insurance to name the County as an additional insured.
24. The term "City" shall include the City and its agents and employees.
25. Nothing in this Agreement relieves the City from the need to obtain any other local, state or federal permits or approvals, as may be required.
26. The City shall comply with all present and future applicable laws, ordinances, rules, regulations, authorizations, orders, and requirements of all federal, state, county and municipal governments, the departments, bureaus, or commissions thereof, authorities, boards or officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions having or acquiring jurisdiction over all or any part of the Artificial Reef Plans.
27. In the event of a breach of any of the provisions of this Agreement by the City, the County may pursue correction action and/or terminate this Agreement, and/or seek to enforce any of its provisions. The remedies that the County may pursue shall be in addition to any other remedy provided for herein or otherwise allowable by law. To the extent that any artificial reef material has been placed pursuant to this Agreement, all of the City's obligations and requirements in this Agreement shall survive the termination of this Agreement.
28. DERM may conduct periodic site inspections of the work to ensure compliance with all the conditions of the Plans, and the City shall ensure that the County has access to conduct any such site inspections.
29. This Agreement shall be effective beginning on the date of execution by all parties. The Artificial Reef Plans may be amended, only after review and written approval by the County, and after being incorporated into this Agreement through a written amendment.
30. No payment from the County or other consideration from the County is required as part of this Agreement. The sole consideration provided by the County to the City for the City's placement of artificial reef material and the work contemplated by this Agreement is the ability of the City and the City's designee to work under the County Permits as described herein. This is agreed to be valuable consideration to the City.
31. The City acknowledges and agrees that the County has no obligation or duty to maintain, protect, preserve, repair, or otherwise care for the artificial reef material included in the Artificial Reef Plans, and in the event that the County is either required by a regulatory agency or elects to move or remove any or all of said artificial reef material, the City shall have no recourse whatsoever against the County and in no event shall the County be liable to the City for damages or any other form of relief.
32. Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any

benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

33. The City cannot assign its obligations under this Agreement to another party, but may enter into written agreements with third parties to fulfill its obligations hereunder. The County acknowledges that Blue Lab Preservation Society, Inc. (dba ReefLine) and its contractors, including without limitation the Project Contractor, will execute the work in furtherance of the City's obligations hereunder pursuant to written agreement(s), copies of which will be provided to the County. The City shall remain liable for all of its obligations hereunder.
34. All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and shall be sent by registered or certified mail, return receipt required, to the parties as follows:

As to the County:

Lisa Spadafina, Assistant Director
Dept. of Regulatory and Economic
Resources-DERM
701 N.W. 1 Court, Suite 400
Miami, Florida 33136

As to the City:

Eric Carpenter, Deputy City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
(305) 673-7010

With Copy to:

Rafael A. Paz, City Attorney
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
(305) 673-7470

or to such other address as may hereafter be provided by the parties in writing. Notices by registered or certified mail shall be deemed received on the delivery date indicated by the U.S. Postal Service on the return receipt.

35. The City shall not make representations about the County's position or role with respect to this Agreement, including, but not limited to, the work proposed in the attached Artificial Reef Plans, or make statements on behalf of the County without prior direction and the County's written approval.
36. Recognizing that artificial reefs are one of the many types of coastal structures that may affect or otherwise impact the coast, and that coordination and cooperation with the County is needed so as to avoid the potential for negative impacts, whether from a particular project or cumulatively, the City agrees to coordinate and cooperate in advance with the County on all proposed artificial reefs and other coastal structures, wave breaks, jetties, hybrid reefs, and any other structures to be located in the ocean, whether such structures are proposed under the County's regulatory permits or another permittee's regulatory permits. These requirements that the City coordinate and cooperate in advance with the County shall apply to all of the above-mentioned coastal structures that are proposed, funded, or otherwise sponsored by the City. Any inadvertent failure to comply with the foregoing requirements shall not be deemed a breach of this Agreement, provided, however, that the City has otherwise demonstrated a good faith effort to comply with the requirements of this paragraph.
37. This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Any litigation hereunder shall be brought in the Circuit Court of the Eleventh Judicial Circuit of Miami-Dade County, Florida.

38. (1) Pursuant to section 2-256 of the Code of the City of Miami Beach, the city has established the office of the inspector general which may, on a random basis, perform reviews, audits, inspections and investigations on all city contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the city.

(2) The office of the inspector general is authorized to investigate city affairs and empowered to review past, present and proposed city programs, accounts, records, contracts and transactions. In addition, the inspector general has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor city projects and programs. Monitoring of an existing city project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The inspector general shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including, but not limited to, project design, bid specifications, (bid/proposal) submittals, activities of the contractor, its officers, agents and employees, lobbyists, city staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.

(3) Upon ten days' written notice to the contractor, the contractor shall make all requested records and documents available to the inspector general for inspection and copying. The inspector general is empowered to retain the services of independent private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including, but not limited to, project design, bid specifications, (bid/proposal) submittals, activities of the contractor, its officers, agents and employees, lobbyists, city staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.

(4) The inspector general shall have the right to inspect and copy all documents and records in the contractor's possession, custody or control which in the inspector general's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

(5) The contractor shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this contract, for examination, audit, or reproduction, until three years after final payment under this contract or for any longer period required by statute or by other clauses of this contract. In addition:

- i. If this contract is completely or partially terminated, the contractor shall make available records relating to the work terminated until three years after any resulting final termination settlement; and

ii. The contractor shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(6) The provisions in this section shall apply to the contractor, its officers, agents, employees, subcontractors and suppliers. The contractor shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the contractor in connection with the performance of this contract.

(7) Nothing in this section shall impair any independent right to the city to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the city by the contractor or third parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative(s) on the latest day and year noted below.

CITY OF MIAMI BEACH

By: _____
City Manager Date

ATTEST:

By: _____
City Clerk Date

Print Name: _____

MIAMI-DADE COUNTY

By: _____
Mayor or Mayor's Designee Date

ATTEST: Juan Fernandez-Barquin,
Clerk of the Court and Comptroller

By: _____
(Deputy Clerk Signature)

Print Name: _____ Date: _____