

Meeting Date
April 11, 2017



AGENDA	
Section	Consent
Item No.	<i>II.A.1</i>

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Agreement between Waste Pro USA and Brevard County for access to county property for oyster shell recycling to support Oyster Restoration in the Indian River Lagoon
DEPT/OFFICE:	Natural Resources Management Department (NRM)

Requested Action:
 It is requested that the Board of County Commissioners authorize the Chairman to execute an Indemnification and Hold Harmless Agreement with Waste Pro USA for oyster shell recycling.

Summary Explanation & Background:
 The primary objective of this agreement is to grant Waste Pro USA access to county-owned property designated for oyster shell recycling to stockpile an inventory of oyster shell within Brevard County. Oyster shell collected, transported and stockpiled during the timeframe of this agreement will supply substrate material to support the installation of oyster reefs in the Indian River Lagoon. Oyster shell is needed for constructing oyster bar wave breaks as part of living shorelines recommended in the Save Our Indian River Lagoon Project Plan.

Oyster restoration projects are often hindered by the limited availability and expense of suitable substrate. Oyster reef restoration generally involves placing bagged or loose oyster shells or other hard substrates into estuaries to provide attachment points for young oysters, or spat. Oyster spat are mobile during the larval stage, moving with currents until they select a place to settle or "set." Natural shell is the preferred substrate for spat to set upon, which is why recycled shell is the ideal material to use in oyster restoration projects.

The local supply of oyster shell available for restoration projects can be increased by diverting oyster shells that are currently sent to county landfill from local shucking plants and restaurants. This shell can be stockpiled at the County's designated recycling site. The process of recycling discarded oyster shells promotes sustainability by reducing the waste stream delivered to the landfill and by returning valuable material to coastal waters to provide foundations for future generations of oysters.

Brevard Zoo would like to contract with Waste Pro USA to haul shell to the County's shell recycling site to increase shell recycling for the Indian River Lagoon. The requested action would authorize Waste Pro USA to access county property to deposit oyster shells. The Indemnification and Hold Harmless agreement was recommended by the County Attorney's office to protect Brevard County when Waste Pro USA is on County-owned property.

Fiscal Impact: N/A

Contact Name: Jane Hart, NRM
Phone: 321-633-2016

Clerk to the Board instruction: Originals signed by Waste Pro USA and CAO will be sent to the Chair when available

Exhibits Attached:
 ATTACHMENT A – AO29;
 ATTACHMENT B – Indemnification and Hold Harmless Agreement Between Waste Pro USA and Brevard County

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager <i>[Signature]</i> Stockton Whitten	Assistant County Manager	Department Director/Extension <i>[Signature]</i> Virginia Barker/X52435
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**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT FORM

RCVD-BCHR-AUG 9 '16

SECTION I

The following information must be completed on all new contracts submitted to the Board.

1. Contractor: Waste Pro USA	
2. Fund/Account #:	3. Division Name:
4. Contract Description: Indemnification and Hold Harmless Agreement (Oyster Shell Recycling for IRL Oyster Restoration project)	
5. Contract Monitor: Jane Hart	6. Mail Stop #: 81
7. Dept./Office Director: Natural Resources/Virginia Barker	8. Contract Type:
ACTION DATE:	ACTION REQUIREMENT:

SECTION II

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<u>✓</u>	<u>_____</u>	<u>VHB</u>	<u>7/27</u>
Risk Management	<u>✓</u>	<u>_____</u>	<u>MJ</u>	<u>8/3/16</u>
County Attorney	<u>✓</u>	<u>_____</u>	<u>CL</u>	<u>8/2/14</u>

If any office denies approval, the package will be returned immediately to the User Agency.

NOTE: This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

RECEIVED
AUG 9 2016
BREVARD COUNTY CLERK



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

April 12, 2017

M E M O R A N D U M

TO: Virginia Barker, Natural Resources Management Director Attn: Jane Hart

RE: Item II.A.1, Agreement with Waste Pro USA, for Access to County Property for Oyster Shell Recycling to Support Oyster Restoration in the Indian River Lagoon

The Board of County Commissioners, in regular session on April 11, 2017, executed an Indemnification and Hold Harmless Agreement with Waste Pro USA, for oyster shell recycling. Enclosed is an executed copy of the Agreement.

Upon execution by Waste Pro USA, please return the fully-executed Agreement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

Encl. (1)

cc: Contracts Administration
Finance
Budget

**MEMORANDUM OF AGREEMENT
AMONG THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS, FLORIDA**

**REGARDING THE USE OF OUTER CONTINENTAL SHELF SAND RESOURCES
FOR SHORE PROTECTION AND RESTORATION
IN BREVARD COUNTY, FLORIDA**

BOEM Negotiated Agreement No. OCS-A 0516

Title I. Explanatory Recitals

- A.** Pursuant to the authority and in accordance with the requirements of Water Resources Development Act of 1996 (P.L. 104-303, §101(b)) the Department of the Army, acting through the United States Army Corps of Engineers (USACE), with the cooperation of the Brevard County Board of County Commissioners, Florida, a political subdivision of the State of Florida (the "County"), is endeavoring to renourish the beach along the Brevard County shoreline.
- B.** USACE and the County have undertaken the Brevard County, Florida Shore Protection Project in furtherance of the aforementioned goal (herein referred to as the "Project").
- C.** Prior to the notice-to-proceed regarding Project construction, the County and USACE will have procured lands, easements, and rights-of-way (collectively, "Land Rights") as necessary from upland landowners, other property rights holders, public entities, and other persons and entities of appropriate scope and duration to facilitate the Project.
- D.** USACE, which is acting as the project manager for the Project, now seeks to obtain sand in a manner that minimizes costs and leverages Federal resources.

Title II. Purpose and Authority

- A.** The Department of the Interior (DOI), acting through the Bureau of Ocean Energy Management (BOEM) enters into this Memorandum of Agreement (MOA) with the County and USACE (collectively with DOI or BOEM, the "Parties") providing for the use of up to 1,700,000 cubic yards of Outer Continental Shelf sand resources ("OCS sand resources") for the Project under the authority of Section 8(k)(2) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. § 1337(k)(2)). The term "OCS sand resources" means the sediment deposits found on or below the surface of the seabed on the Outer Continental Shelf (OCS), as defined in Section 2(a) of the OCSLA (43 U.S.C. § 1331(a)). This MOA authorizes the County or USACE, as appropriate, to use OCS sand resources from Canaveral Shoals II (hereinafter called CS II), as designated and delineated in Table 1 and on the attached maps (**Attachment 1**), in accordance with the terms of this

MOA. After removal of the sand resources from the OCS and placement of those resources as specified in this MOA, BOEM has no jurisdiction over those sand resources unless they return to the OCS.

Table 1. CS II Borrow Area Coordinates.

Latitude	Longitude
28° 25' 07.38"	80° 26' 54.42"
28° 24' 41.60"	80° 25' 52.72"
28° 23' 32.78"	80° 26' 20.77"
28° 23' 47.61"	80° 27' 9.60"
28° 24' 14.25"	80° 27' 30.99"
28° 24' 56.91"	80° 27' 15.05"

Note: Longitude and latitude (degrees, minutes, seconds) are in geographic coordinate system WGS 1984.

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

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

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

C. USACE, which is undertaking this Project pursuant to authority granted to it in accordance with Water Resources Development Act of 1996, enters into this MOA in compliance with requirements of Sections 8(k)(2)(A)(i) and 8(k)(2)(D) of the OCSLA. This Project is largely funded by Flood Control and Coastal Emergency funding associated with Hurricane Matthew. The County enters into this MOA in compliance with the requirements of Section 8(k)(2)(A)(i) of the OCSLA.

Nothing in this MOA is intended to impede or hinder the County's or USACE's ability to complete the Project or abrogate or diminish either Parties' authority or responsibilities under applicable law, including but not limited to the Water Resources Development Act of 1996; National Environmental Policy Act (NEPA) (42 U.S.C. §4321 *et seq.*), Endangered Species Act (ESA) (16 U.S.C. §1531 *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. §801 *et seq.*), Marine Mammal Protection Act (MMPA) (16 U.S.C. §1361 *et seq.*), National Historic Preservation Act (NHPA) (54 U.S.C. §300101 *et seq.*), Migratory Bird Treaty Act (MBTA) (16 U.S.C. §§703-712), or the Coastal Zone Management Act (CZMA) (16 U.S.C. §1451 *et seq.*).

Title III. Project Description

The Project is authorized under the Water Resources Development Act of 1996, as a beach erosion project, to provide storm damage protection to structures that would otherwise be threatened by chronic shoreline retreat and storm-induced erosion and to maintain an area suitable for recreation and wildlife habitat in developed beach areas. The USACE may use up to 1,700,000 cubic yards of OCS sand resources to renourish the beach. The OCS sand resources must be extracted from the CS II Borrow Area (see **Attachment 1**).

Title IV. Provisions

A. BOEM authorizes the use of OCS sand resources from the CS II Borrow Area for the Project. The USACE or its contractor(s) may only extract, transport, and place such OCS sand resources from the borrow area in accordance with the terms and conditions set forth below and in accordance with the Florida Department of Environmental Protection (FDEP) - Consolidated Joint Coastal Permit (JCP) and Sovereign Submerged Lands Authorization Permits No. 0137212-016-JC and No. 0134869-009-JC or other applicable permits. Except as provided above, the Parties agree that all other aspects of the Project's execution and completion remain as described in the Project Cooperation Agreement between the Department of the Army and Brevard County, Florida for Construction of the Brevard County, Florida Shore Protection Project entered into on 20 April 2000, and any subsequent amendments thereto.

B. All written notifications, requests, submissions, and deliverables, unless otherwise stated, should be sent to BOEM at:

Chief, Marine Minerals Branch
Attention: Jeffrey Reidenauer, Ph.D.
Bureau of Ocean Energy Management
45600 Woodland Road
VAM-LD
Sterling, Virginia 20166

All electronic notifications, submissions, and deliverables to BOEM should be sent to dredgeinfo@boem.gov.

All written notifications, requests, submissions, and deliverables to the USACE should be sent to:

Programs and Project Management
Attention: Elizabeth Fiocchi
U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, Florida 32207

All written notifications, requests, submissions, and deliverables to Brevard County should be sent to:

Beach Management Coordinator
Brevard County, Natural Resources Management Department
2725 Judge Fran Jamieson Way, A-219
Viera, Florida 32940-6605
Attention: Mike McGarry

C. This MOA applies only to the extraction, transportation, and placement of OCS sand resources as described above. This MOA will terminate or expire (1) upon USACE sending written notice that it has obtained sufficient OCS sand resources to complete the Project, up to 1,700,000 cubic yards, or (2) three (3) years from the date of execution of this MOA, whichever occurs first. Upon request by USACE, the Parties may agree to extend the terms of this MOA as necessary to provide USACE and its contractor(s) with additional time to complete the Project. The Parties acknowledge that there may be a need for future OCS sand resources for periodic maintenance, augmentation or construction purposes. BOEM, USACE, and the County may enter into subsequent agreements, for the use of additional OCS sand resources for the Project, consistent with each Party's responsibilities under applicable law.

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

1. Plans and Performance Requirements

The USACE will include this MOA as a reference document in the advertised "Construction Solicitation and Specifications Plan" (hereinafter referred to as the "Plan"). The USACE will ensure that all operations at CS II are conducted in accordance with the final approved Plan and all terms and conditions in this MOA, as well as all applicable statutes, regulations, orders and any guidelines or directives specified or referenced herein. The USACE will send BOEM a copy of the plans and its modification when publically available.

The dredging method for removing sand from CS II will be consistent with those evaluated in all applicable NEPA documents and approved in the authorizing documents, as well as project permits. The USACE will allow BOEM to review and comment on modifications to the Plan that may affect the borrow area or pipeline corridors on the OCS, including the use of submerged or floated pipelines to directly convey sediment from the borrow area to the placement site. Said comments will be delivered in a timely fashion so as to not unnecessarily delay the USACE's construction contract or schedule.

If dredging and/or conveyance methods are not wholly consistent with those evaluated in relevant NEPA documents prepared by BOEM for this Project, and environmental and cultural resource consultations, and those authorized by the Joint Coastal Permits (JCPs), additional

environmental review may be necessary. If the additional NEPA, consultations, or permit modifications would impact or otherwise supplement the provisions of the MOA, an amendment may be required.

Prior to the commencement of construction, the USACE must electronically provide BOEM with a summary of the construction schedule consistent with Paragraph 15. The USACE, at the reasonable request of BOEM or the Bureau of Safety and Environmental Enforcement (BSEE), must allow access, at the site of any operation subject to safety regulations, to any authorized Federal inspector and must provide BOEM or BSEE any documents and records that are pertinent to occupational or public health, safety, environmental protection, conservation of natural resources, or other use of the OCS as may be requested.

2. Environmental Responsibilities and Environmental Compliance

The USACE is the lead agency on behalf of the Federal Government to ensure the Project complies with applicable environmental laws, including but not limited to the ESA, MSA, MBTA, NHPA, and CZMA, and any consultations or limitations imposed thereunder. Brevard County is responsible for compliance, with the specific conditions of the JCPs, as authorized by the CZMA.

The USACE will serve as the lead Federal agency for ESA Section 7 consultation concerning protected species under the purview of the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The USACE will instruct its contractor(s) to implement the mitigation terms, conditions, and measures required by the USFWS, NMFS, Florida DEP, and BOEM pursuant to applicable Federal and State laws and regulations prior to commencement of activities authorized under this MOA, including extraction, transportation and placement of sand resources from CS II. The required mitigation terms, conditions, and measures are reflected in the relevant Biological Opinions, Conservation Recommendations, Consistency Determinations, and JCPs. Electronic copies of all relevant correspondence, monitoring data, and reports related to the activities covered by this MOA, will be provided electronically to BOEM within 14 days of issuance (including observer, FDEP, and dredging reports). The County is responsible for compliance with the Specific Conditions of the JCP. Construction may not commence until the pre-construction requirements have been completed.

3. Pre-Construction Notification of Activity in or near the Borrow Area

The USACE will invite BOEM to attend a pre-construction meeting that describes the USACE's and/or its contractors' or agents' plan and schedule to construct the Project.

The USACE will notify BOEM electronically at least 72 hours prior to the commencement, and within 24 hours after termination, of operations at CS II. BOEM will electronically notify the USACE in a timely manner of any OCS activity within the jurisdiction of the DOI that may adversely affect the USACE's ability to use OCS sand for the Project.

4. Dredge Positioning

During all phases of the Project, the USACE will ensure that the dredge and any bottom-disturbing equipment is outfitted with an onboard global positioning system (GPS) capable of

maintaining and recording location within an accuracy range of no more than plus or minus 3 meters. The GPS must be installed as close to the hydraulic dredge as is practicable or must use appropriate instrumentation to accurately represent the position of the hydraulic dredge. During dredging operations, the USACE will immediately notify BOEM electronically if dredging occurs outside of the approved borrow area. Such notification will be made as soon as possible after the time USACE becomes aware of dredging outside of the approved borrow area.

Anchoring, spudding, or other bottom disturbing activities are not authorized outside of the approved borrow area on the OCS, except for immediate concerns of safety, navigation risks or emergency situations.

The USACE will provide BOEM, electronically, with all appropriate Dredging Quality Management (DQM) data acquired during the Project using procedures jointly developed by the USACE's National Dredging Quality Management (DQM) Data Program Support Center and BOEM. The USACE will submit the DQM data, including draghead, cutterhead, or other hydraulic or mechanical dredging device depth every two weeks. A summary DQM dataset will be submitted within 90 days of completion of the Project. If available, the USACE will also submit Automatic Identification System (AIS) data for vessels qualifying under the International Maritime Organization's (IMO) International Convention for the Safety of Life at Sea.

5. Dredge Operation

Dredging will occur preferentially in naturally accreting areas of CS II and dredging will be avoided in erosional areas of the shoal to the extent possible. If a hopper dredge is used, dredging will be performed so that the hopper dredge excavates material using relatively shallow, uniform passes to an overall cut depth not to exceed that permitted under the Florida JCP Final Order addressing sand compatibility requirements. The USACE will use the methods necessary to maintain the relative profile and shape of the sand shoal complex to the extent practicable, as determined by the USACE, to avoid creating deep depressions or pits.

6. Submittal of Production and Volume Information

The USACE, in cooperation with the dredge operator, must submit to BOEM a summary of the dredge track lines, outlining any deviations from the original Plan every two weeks. A color-coded plot of the draghead, cutterhead, or other hydraulic or mechanical dredging device will be submitted, showing any horizontal or vertical dredge violations. The dredge track lines must show dredge status: hotelling, dredging, transiting, or unloading. This map will be provided in PDF format.

At least every two weeks, the USACE will electronically provide a report of the construction progress including estimated volumetric production rates to BOEM. The project completion report, as described below, will also include production and volume information, including Daily Operational Reports.

7. Local Notice to Mariners

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

8. Marine Pollution Control and Contingency Plan

The USACE will require its contractor(s) and subcontractor(s) to prepare for and take all necessary precautions to prevent discharges of oil and releases of waste or hazardous materials that may impair water quality. In the event of such an occurrence, notification and response will be in accordance with applicable requirements of 40 C.F.R. Part 300. All dredging and support operations must be compliant with U.S. Coast Guard regulations and the U.S. Environmental Protection Agency's Vessel General Permit, as applicable. The USACE will notify BOEM of any noncompliant discharges and remedial actions taken, and will provide copies of reports of the incident and resultant actions electronically.

9. Encounter of Ordnance

If any ordnance is encountered while conducting dredging activities at CS II, the USACE will report the discovery within 24 hours to Dr. Jeff Reidenauer, Chief, BOEM Marine Minerals Branch, at (703) 787-1851 and dredgeinfo@boem.gov.

10. Bathymetric Surveys

The Corps will provide BOEM with pre- and post-dredging bathymetric surveys of the Borrow Area. The pre-dredging survey of the Borrow Area will be conducted within 60 days prior to the commencement of dredging and the data will be provided to BOEM for review via dredgeinfo@boem.gov, allowing for a minimum of 7 working days for BOEM to provide concurrence prior to the commencement of dredging. A qualified hydrographic surveyor, independent from the dredging/construction contractor, must conduct and oversee the survey, and must approve the survey results before transmitting them to BOEM. The post-dredging survey of the Borrow Area will be conducted within 60 days after the completion of dredging. BOEM recommends that the Corps conduct additional bathymetric surveys of the Borrow Area one (1) and three (3) years after the completion of dredging to document borrow area evolution and provide information to inform future decisions and consultations regarding use of OCS sand resources. Surveys, error analysis, and reporting will be performed in accordance with the most recent edition of the National Oceanic and Atmospheric Administration's (NOAA's) Office of Coast Survey Hydrographic Survey Field Procedure Manual. Survey standards and requirements are specified and can be found on the Coast Survey Document Library (<https://www.nauticalcharts.noaa.gov/hsd/specs/specs.htm>).

For bathymetric surveys, one hundred percent coverage using multi-beam bathymetric survey methods is required. All bathymetric data will be roll, pitch, heave, and tide corrected using best practices. Sound velocity corrections will be applied based on measurements made during and throughout the duration of the survey using a profiling sound velocity meter to obtain water column sound velocities with casts that log the entire water column to the seafloor. Survey lines of the specific dredge area will be established at intervals necessary to provide 100 percent

coverage. All survey lines will extend at least 100 meters (328 feet) beyond the edge of the Borrow Area limits as defined in this MOA.

All data will be collected in such a manner that post-dredging bathymetric surveys are compatible with the pre-dredging bathymetric survey data to enable the latter to be subtracted from the former to calculate the volume of sand removed, the shape of the excavation, and the nature of post-dredging bathymetric change. Pre-dredge bathymetric survey transects will be reoccupied during the post-dredging surveys. Surveys will be conducted using kinematic GPS referenced to a GPS base station occupying an established (NAVD 88 vertical control) monument within 15 kilometers (9 miles) of the survey area, a National Geodetic Survey real-time network, or a water-level gauge deployed within the vicinity of the Borrow Area and referenced to an established monument (NAVD 88 vertical control), unless alternative methods are approved by BOEM. Pre- and post-dredging surveys will be referenced to the same water-level gauge, tide gauge, real-time network, benchmark, or BOEM-approved method. An uncertainty or error analysis will be conducted on the bathymetric dataset based on calculated differences of measured elevations (depths) at all transect crossings (also note that other best practices typically employed to identify potential error or quantify uncertainty, such as daily bar-checks, will be conducted and documented). A methods and results of the uncertainty analysis report, field notes, and metadata must be submitted to BOEM with the processed bathymetric data products.

If data accuracy, coverage, quality, or other parameters for either pre- or post-dredging surveys are not sufficient to provide for accurate comparisons between the pre-dredge and post-dredge surveys (e.g., do not meet specifications and standards discussed or referenced above), BOEM may require that a new survey (at the pre-dredge and/or post-dredge phase) be conducted.

The delivery format for bathymetry data submission is an ASCII file containing x, y, z data and a digital elevation model in a format agreed upon between BOEM and USACE in writing. The horizontal data will be provided in the NAD83 Florida State Plane East, U.S. survey feet. Vertical data will be provided in the NAVD 88, U.S. survey feet unless otherwise specified. An 8.5 x 11 inch plan view plot of the pre- and post-construction data will be provided showing the survey vessel navigation tracks, as well as contour lines at appropriate elevation intervals. A plot of the digital elevation model will also be provided. These plots will be provided in Adobe PDF format. Images and descriptions of side scan sonar or bathymetric anomaly targets will be included and identified on an index map.

11. Archaeological Resources

Onshore Prehistoric or Historic Resources

If the USACE discovers any previously unknown historic or archeological resources while accomplishing the activity on Brevard County beaches, the USACE will notify BOEM of any finding. The USACE will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

Offshore Prehistoric or Historic Resources

The following five anomalies (listed in Table 2) must be avoided during dredging operations by at least 300 feet:

Table 2. Anomalies to be avoided During Dredging Operations

Target	Area/Block	Amplitude (gammas)	Duration (ft)	FL East State Plane Coordinates NAD 1983 (X / Y Coordinate)	Minimum Avoidance Radius (ft)	Note
m57	Canaveral Shoals II	147	140	831766/1482563	300	Cultural Resource
m35	Canaveral Shoals II	51	125	836039/1482530	300	Cultural Resource
DRE 2	Canaveral Shoals II	NA	NA	837220/1480453	300	Acoustic Receiver
m47	Canaveral Shoals II	61	165	837485/1480862	300	Cultural Resource
m61	Canaveral Shoals II	52	100	832730/1481664	300	Cultural Resource

Targets identified as a “Cultural Resource” are potentially significant historical resources (e.g., debris related to space program). The target identified as an “Acoustic Receiver” is an operational scientific instrument used in a BOEM scientific study. In the event that the

Parties and/or dredge operators discover any archaeological resources prior to dredging operations in CS II or in the vicinity of pump-out operations, the USACE will report the discovery to the Chief, Marine Minerals Branch, BOEM electronically in a timely manner. The Corps Planning Division will coordinate with BOEM on the measures needed to evaluate, avoid, protect, and, if needed, mitigate adverse impacts from an unanticipated discovery. If investigations determine that the resource is significant, the Parties will together determine how best to protect it.

If the Parties and/or dredge operators discover any archaeological resources while conducting dredging operations, the USACE will require that dredge and/or pump-out operations be halted immediately and avoid the resource per the requirements of the USACE specifications for unanticipated finds. The USACE will then immediately report the discovery to Chief, Marine Minerals Branch, BOEM electronically. The Corps Planning Division will coordinate with BOEM on the measures needed to evaluate, avoid, protect, and, if needed, mitigate adverse impacts from an unanticipated discovery. If investigations determine that the resource is significant, the Parties will together determine the necessary further action required and how to best protect the resource.

12. Responsibilities

BOEM does not warrant that the OCS sand resources used in this Project are suitable for the purpose for which they are intended by the USACE and the County. BOEM's responsibility under this Project is limited to the authorization of access to OCS sand resources from CS II, as described in this MOA, and therefore BOEM disclaims any and all responsibility for the physical and financial activities undertaken by the other Parties in pursuit of the Project.

13. Project Completion Report

Consistent with Paragraph 15, a project completion report will be submitted by the USACE to BOEM within 120 days following completion of the activities authorized under this MOA. This report and supporting materials should be sent in writing and electronically. The report will contain, at a minimum, the following information:

- the names and titles of the project managers overseeing the effort (for the USACE, the engineering firm (if applicable), and the contractor), including contact information (phone numbers, mailing addresses, and email addresses);
- the location and description of the project, including the final total volume of material extracted from the borrow area and the volume of material actually placed on the beach or shoreline (including a description of the volume calculation method used to determine these volumes);
- DQM data, in ASCII files, containing the x, y, z and time stamp of the cutterhead or drag arm locations;
- a narrative describing the final, as-built features, boundaries, and acreage, including the restored beach width and length;
- a narrative discussing the construction sequences and activities, and, if applicable, any problems encountered and solutions;
- a list and description of any construction change orders issued, if applicable;
- a list and description of any safety-related issues or accidents reported during the life of the project;
- a narrative and any appropriate tables describing any environmental surveys or efforts associated with the project and costs associated with these surveys or efforts;
- a table listing significant construction dates beginning with bid opening and ending with final acceptance of the project by the USACE;
- a table, an example of which is illustrated below, showing the various key project cost elements;

	Cost Incurred as of Construction Completion (\$)
Construction	
Engineering and Design	
Pre- and Post-Dredging Bathymetric Surveys	
Compilation of Project Completion Report	
Total	

- a table showing the various phases of the project construction, the types of construction equipment used, the nature of their use;
- digital appendices containing the as-built surveys, beach-fill cross-sections, and survey data; and
- any additional pertinent comments.

14. Reporting Compliance

The USACE will designate in advance of construction a single point of contact (and preferably a back-up contact) responsible for facilitation of compliance with all MOA requirements. The contact information will be provided to BOEM, electronically, at least 30 days in advance of dredging and construction operations.

The Parties will attempt to reasonably comply with the provisions of this MOA. Should there be an allegation of a failure to comply, the allegation will be corrected as soon as possible and/or resolved jointly among BOEM, USACE and County, including through the dispute resolution process identified in Paragraph 16.

15. Sharing of Information

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

The Parties to this MOA acknowledge that information and reports required by and/or exchanged pursuant to the Project that is the subject of this MOA may include confidential business information, proprietary information, or other sensitive information that should be protected from disclosure.

Any Party, contractor or agent of one of the Parties requesting information or reports provided pursuant to this MOA be treated as confidential, will prominently mark the information and report as "Confidential" along with the bases for the claim of confidentiality. Any covering correspondence submitted with the information or report will likewise note the claim of confidentiality being asserted. To the extent practicable, a Party to this MOA may only request information that has been marked as "Confidential" and is in the possession of another Party to

this MOA if the information is needed by the requesting Party to carry out their obligations under this MOA or if the information is necessary for the requesting Party to fulfill their obligations under the law. The Party in possession of the information requested may work with the requesting party to determine if the information can be shared without waiving the confidential nature of the material.

The Parties further agree that they will immediately and timely notify the other Parties in writing of any request by any person seeking the release or disclosure of information marked "Confidential" in whole or in part, including, but not limited to, requests pursuant to Court orders, discovery, subpoenas, or other compulsory process, or public access request under applicable Federal or State law. Notification will be considered timely if it provides the Parties or individuals claiming the information or report is confidential a reasonable opportunity to seek a Court order to prevent release or disclosure. Any disputes regarding requests for information or the confidential nature of the information requested will be resolved according to applicable law and through the dispute resolution process identified in Paragraph 16. If the Party or individual claiming the information or report is confidential fails to obtain a timely Court order preventing the release or disclosure of the information, the Party in possession of the information will release it to the extent required by applicable law.

16. Resolution of Disputes

The Parties agree to make every attempt to settle any disputes regarding this MOA at the lowest operational level. In the case of a (1) substantial disagreement between BOEM and USACE or between BOEM and the County with respect to any aspect of the BOEM's authorization of the use of OCS sand resources in accordance with the terms and conditions as specified or (2) any alleged breach by a Party of the terms and conditions as specified herein, the undersigned will designate a senior management official in their respective agencies to state the area(s) of disagreement or alleged breach in writing and present such statement to the other Parties for consideration. If resolution is not reached within 60 days, the undersigned may request the active participation of the District Commander, Jacksonville District of the USACE, the Chief of the Office of Strategic Resources of BOEM, and the County Administrator or designee.

17. Miscellaneous

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

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

Nothing herein is intended to conflict with current USACE, County, or BOEM statutes or regulations. If the terms of this MOA are inconsistent with existing statutes or regulations of any of the Parties entering into this MOA, then those portions of this agreement which are

determined to be inconsistent will be invalid, but the remaining terms and conditions not affected by the inconsistency will remain in full force and effect. At the first opportunity for review of the MOA once such inconsistency is identified, all necessary changes will be accomplished either by an amendment to this MOA or by entering into a new MOA, whichever is deemed expedient to the interest of the Parties.

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

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

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
AND
BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS, FLORIDA**

**REGARDING THE USE OF OUTER CONTINENTAL SHELF SAND RESOURCES
FOR SHORE PROTECTION AND RESTORATION
IN BREVARD COUNTY, FLORIDA**

BOEM Negotiated Agreement No. OCS-A 0516

Signatory Page



L. Renee Orr
Chief, Strategic Resources Office
Bureau of Ocean Energy Management
Department of the Interior

Date: 10/11/17

Jason A. Kirk
Colonel, Corps of Engineers
Corps of Engineers
Jacksonville District

Date: _____

Brevard County Board Of County Commissioners

By:

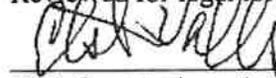


Curt Smith, Chairman

As approved by the Board on 9/19/17

Attest:
Scott Ellis, Clerk

Reviewed for legal form and content by:


Christine Valliere, Assistant County Attorney

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
AND THE
CORPS OF ENGINEERS
OF THE DEPARTMENT OF THE ARMY
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Signatory Page

L. Renee Orr
Chief, Strategic Resources Office
Bureau of Ocean Energy Management
Department of the Interior

Date: _____


for Jason A. Kirk
Colonel, Corps of Engineers
Corps of Engineers
Jacksonville District

Date: 5 OCT 17

Brevard County Board Of County Commissioners
By:

Curt Smith, Chairman

As approved by the Board on: _____

Attest: _____
Scott Ellis, Clerk

Reviewed for legal form and content by:

Christine Valliere, Assistant County Attorney

**MEMORANDUM OF AGREEMENT
AMONG
THE BUREAU OF OCEAN ENERGY MANAGEMENT
OF THE DEPARTMENT OF THE INTERIOR
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L. Renee Orr
Chief, Strategic Resources Office
Bureau of Ocean Energy Management
Department of the Interior

Date: _____

Jason A. Kirk
Colonel, Corps of Engineers
Corps of Engineers
Jacksonville District

Date: _____

Brevard County Board Of County Commissioners
By:

Curt Smith, Chairman

As approved by the Board on: _____

Attest: _____
Scott Ellis, Clerk

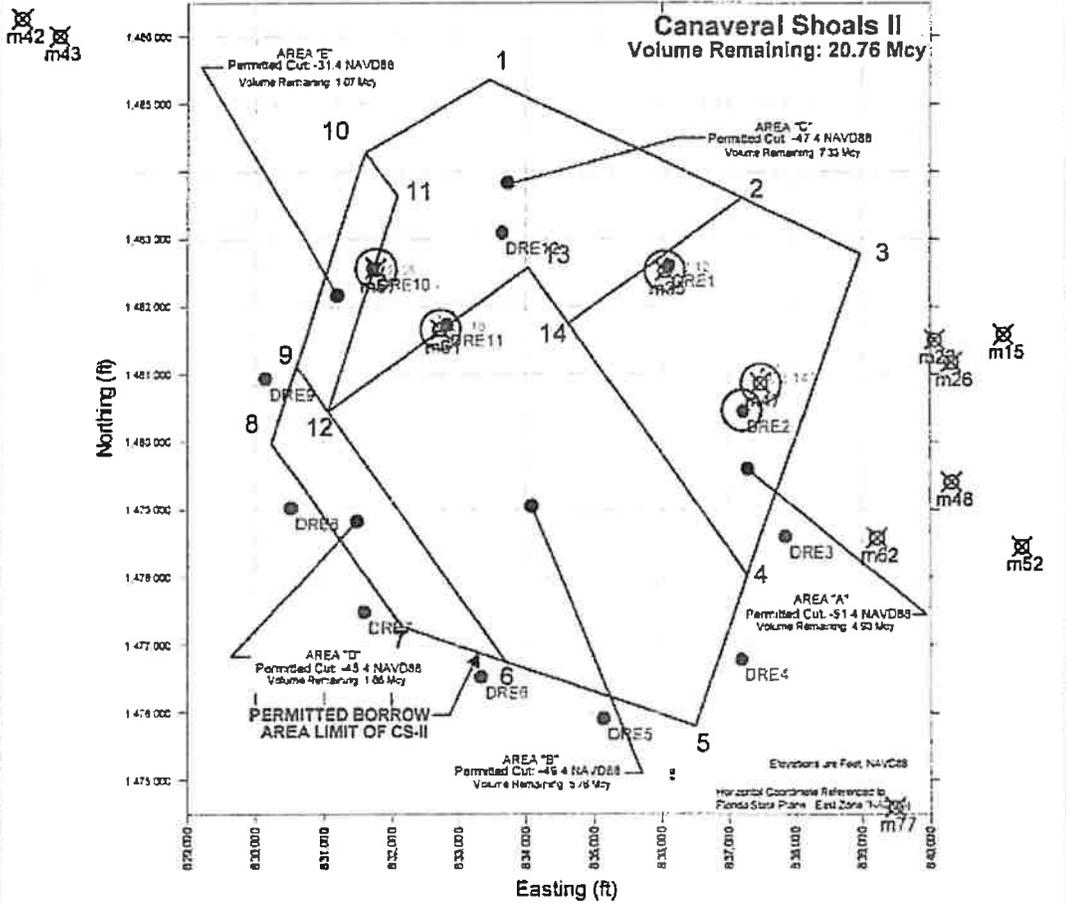
Reviewed for legal form and content by:

Christine Valliere, Assistant County Attorney

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Attachment 1
CS II Borrow Area Map and Placement Sites

May 2014, Post-Construction Bathymetric Survey



PERMIT DRAWINGS. NOT FOR CONSTRUCTION

Acoustic Receiver Locations

Station Name	Easting (FT)	Northing (FT)	Latitude (Deg)	Longitude (Deg)
DRE1	836197.2	1,482,614.7	28.41118	-80.43127
DRE2	837,219.6	1,480,452.9	28.40522	-80.43681
DRE3	837,858.4	1,478,597.9	28.40011	-80.43485
DRE4	837,198.2	1,476,780.5	28.39512	-80.43691
DRE5	835,141.2	1,475,916.4	28.39277	-80.44334
DRE6	833,325.0	1,476,529.8	28.39448	-80.44938
DRE7	831,594.1	1,477,485.5	28.39713	-80.45435
DRE8	830,510.1	1,479,018.6	28.40126	-80.45770
DRE9	830,141.5	1,480,933.1	28.40663	-80.45882
DRE10	831,724.6	1,482,569.2	28.41111	-80.45366
DRE11	832,825.4	1,481,734.3	28.40830	-80.45046
DRE12	831,642.2	1,483,097.9	28.41254	-80.44783



olsen
associates inc.
2618 Henschel Street
Jacksonville, FL 32204
(904) 387-6114
CCA No. 3491

BREVARD COUNTY, FL
SHORE PROTECTION PROJECT - SOUTH REACH

CANAVERAL SHOALS II
BORROW AREA

DATE	REVISION

DATE
08/31/17
DRAWN BY
ML
SHEET
1 OF X

Canaveral Shoals II Borrow Area Map

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INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

THIS AGREEMENT by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "County"), and Waste Pro USA, a business having its primary business location in Cocoa, FL, whose mailing address is 699 S. Range Rd., Cocoa, Brevard County (hereinafter the "Contractor").

WHEREAS, the Contractor desires to haul oyster shells to an oyster shell recycling facility on County's property for the County's Indian River Lagoon (IRL) Oyster Restoration partnership with the Brevard Zoo; and,

WHEREAS, the Contractor has an agreement with Rusty's Seafood in Port Canaveral to haul oyster shells from 628 Glen Cheek Dr., Cape Canaveral to the County's recycling facility located at, Cocoa, FL 32926; and

WHEREAS, the County agrees to allow such shell recycling for the IRL Oyster restoration partnership as long as the operations are not detrimental to the County's property.

NOW THEREFORE, in consideration of the covenants contained herein, it is mutually agreed:

1. The recitals stated above are hereby incorporated herein.
2. The County shall allow the placement of oyster shells hauled by the Contractor to the location shown at Exhibit "A". The County may terminate use of the property at any time. Hauling shall occur for the duration of the Purchase Order, and any Change Orders as agreed by both parties.
3. The County shall allow access to the area shown in Exhibit "A" for the purpose of hauling, stockpiling and recycling oyster shells.

4. The County shall allow access to the area shown in Exhibit "A" for the duration of the Purchase Order, including any Change Orders.

5. The Contractor shall be responsible for all costs associated with hauling and delivery of the oyster shells.

6. The Contractor shall indemnify and hold harmless the County and its agents and employees from and against all claims, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this agreement, which also includes access to the site for the work, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of the Contractor, or anyone directly or indirectly employed by the Contractor, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by in part by a party indemnified thereunder. In any and all claims against the County, or any of its agents or anyone directly or indirectly employed by the Contractor, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial contractor, under workers' compensation acts, or other related policies of insurance. The parties acknowledge specific consideration had been exchanged for this provision.

7. The Contractor, at its own expense, shall keep in force and at all times maintain during the term of this agreement:

a. General Liability Insurance issued by responsible insurance companies and in a form acceptable to the County, with combined single limits of not less than One Million Dollars (\$1,000,000.00) for Bodily Injury and Property Damage per occurrence.

b. Automobile Liability coverage shall be in the minimum amount of One Million Dollars (\$1,000,000.00) combined single limits for Bodily Injury and Property Damage per occurrence.

c. Full and complete Workers' Compensation Coverage, as required by State of Florida law, shall be provided.

d. The Contractor shall provide the County with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the County. Said Liability Policies shall provide that the County be an additional insured. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

8. The Contractor shall provide an up-to-date list of the persons accessing the County's property for the purpose of hauling and stockpiling oyster shells. All persons on said list shall be covered by the insurance required in paragraph 7 above. No persons, other than those listed, shall be permitted to access the County property for the purpose of construction or maintenance.

9. This agreement does not convey to the Contractor any property rights, nor any rights of privileges other than those specified herein.

10. In the event of any legal action to enforce the terms of this contract each party shall bear its own attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first written.

ATTEST:

[Signature]

Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

[Signature]

Curt Smith, Chairman

As approved by the Board on: April 11, 2017

Reviewed for Legal Form and Content By:

[Signature]

Christine Lepore, Assistant County Attorney

Valliere

WITNESSES:

[Signature]
[Signature]

(Corporate Seal)

WASTE PRO USA

[Signature]
(print name) Donna J Hardy President

I hereby certify that Kerry Salazar personally appeared before me and executed the foregoing instrument as the controller of Waste Pro on behalf of said corporation. Witness my hand and seal this 9 day of October, 2017.

[Signature]
NOTARY PUBLIC
My Commission Expires:

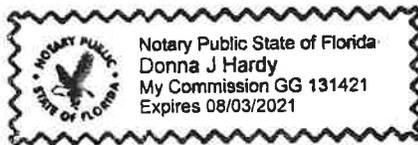


EXHIBIT A

